

## Table of Contents

<b>CHAPTER 6.....</b>	<b><a href="#">123</a></b>
<b>Human Rights.....</b>	<b><a href="#">123</a></b>
<b>A. GENERAL .....</b>	<b><a href="#">123</a></b>
1. Country Reports on Human Rights Practices .....	<a href="#">123</a>
2. UN General Assembly Third Committee Resolutions.....	<a href="#">123</a>
3. ICCPR.....	<a href="#">124</a>
4. Human Rights Council.....	<a href="#">124</a>
a. Overview.....	<a href="#">124</a>
b. Actions regarding Syria .....	<a href="#">127</a>
c. Actions regarding Sri Lanka .....	<a href="#">131</a>
<b>B. DISCRIMINATION .....</b>	<b><a href="#">132</a></b>
1. Race.....	<a href="#">132</a>
a. Periodic report of the United States to the Committee on the Elimination of Racial Discrimination.....	<a href="#">132</a>
b. Human Rights Council .....	<a href="#">139</a>
c. UN General Assembly .....	<a href="#">141</a>
2. Gender.....	<a href="#">142</a>
a. Sexual violence in conflict and emergencies.....	<a href="#">142</a>
(1) United Nations .....	<a href="#">142</a>
(2) U.S. “Safe from the Start” Initiative .....	<a href="#">145</a>
b. Eliminating violence against women.....	<a href="#">146</a>
c. Commission on the Status of Women .....	<a href="#">149</a>
d. U.S. actions .....	<a href="#">150</a>
3. Sexual Orientation .....	<a href="#">152</a>
a. Human Rights Council .....	<a href="#">152</a>
b. UN .....	<a href="#">154</a>
4. Age.....	<a href="#">157</a>
a. U.S. view on possible draft convention .....	<a href="#">157</a>
b. UN working group.....	<a href="#">158</a>
c. Human Rights Council .....	<a href="#">161</a>
d. UN General Assembly Third Committee .....	<a href="#">161</a>
5. Persons with Disabilities.....	<a href="#">162</a>
<b>C. CHILDREN.....</b>	<b><a href="#">166</a></b>
1. Committee on the Rights of the Child .....	<a href="#">166</a>

2. Rights of the Child .....	<a href="#">169</a>
a. <i>Human Rights Council</i> .....	<a href="#">169</a>
b. <i>UN General Assembly</i> .....	<a href="#">170</a>
3. Children and Armed Conflict.....	<a href="#">171</a>
a. <i>United Nations</i> .....	<a href="#">171</a>
b. <i>Child Soldiers Prevention Act</i> .....	<a href="#">172</a>
<b>D. ECONOMIC, SOCIAL, AND CULTURAL RIGHTS</b> .....	<a href="#">173</a>
1. Education .....	<a href="#">173</a>
2. Food .....	<a href="#">174</a>
3. Water and Sanitation.....	<a href="#">176</a>
4. Health.....	<a href="#">177</a>
<b>E. HUMAN RIGHTS AND THE ENVIRONMENT</b> .....	<a href="#">180</a>
<b>F. BUSINESS AND HUMAN RIGHTS</b> .....	<a href="#">181</a>
1. Implementation of Guiding Principles.....	<a href="#">181</a>
2. Extractive industries.....	<a href="#">182</a>
<b>G. INDIGENOUS ISSUES</b> .....	<a href="#">184</a>
<b>H. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT</b> .....	<a href="#">187</a>
Report to the UN Committee Against Torture .....	<a href="#">187</a>
<b>I. JUDICIAL PROCEDURE, PENALTIES, AND RELATED ISSUES</b> .....	<a href="#">190</a>
1. Death Penalty .....	<a href="#">190</a>
2. Arbitrary Detentions .....	<a href="#">190</a>
<b>J. FREEDOM OF ASSEMBLY AND ASSOCIATION</b> .....	<a href="#">191</a>
1. Human Rights Defenders.....	<a href="#">191</a>
2. Freedom of Assembly and Association Generally.....	<a href="#">192</a>
<b>K. FREEDOM OF EXPRESSION</b> .....	<a href="#">195</a>
1. General .....	<a href="#">195</a>
a. <i>Protection of Journalists</i> .....	<a href="#">195</a>
b. <i>Freedom of expression and women's empowerment</i> .....	<a href="#">196</a>
2. Internet Freedom and Privacy.....	<a href="#">197</a>
<b>L. FREEDOM OF RELIGION</b> .....	<a href="#">200</a>
1. U.S. Domestic Developments .....	<a href="#">200</a>
a. <i>Launch of the Office of Faith-Based Community Initiatives</i> .....	<a href="#">200</a>
b. <i>U.S. annual report on international religious freedom</i> .....	<a href="#">201</a>
2. Human Rights Council.....	<a href="#">201</a>

<i>a. Resolutions at the 22<sup>nd</sup> session</i> .....	<a href="#">201</a>
<i>b. Istanbul Process</i> .....	<a href="#">204</a>
<b>M. RULE OF LAW AND DEMOCRACY PROMOTION</b> .....	<a href="#">206</a>
1. United States Joins Venice Commission .....	<a href="#">206</a>
2. UN Third Committee Resolution .....	<a href="#">207</a>
3. Civil Society .....	<a href="#">208</a>
4. Equal Political Participation .....	<a href="#">210</a>
<b>N. PUTATIVE RIGHTS</b> .....	<a href="#">211</a>
1. Right to Development Resolution at the Human Rights Council .....	<a href="#">211</a>
2. Putative Right to Peace .....	<a href="#">212</a>
<i>a. Working Group on a Draft UN Declaration on the Right to Peace</i> .....	<a href="#">212</a>
<i>b. HRC resolution on the UN declaration on the right to peace</i> .....	<a href="#">218</a>
<b>Cross References</b> .....	<a href="#">219</a>

## CHAPTER 6

### Human Rights

#### A. GENERAL

##### 1. Country Reports on Human Rights Practices

On April 19, 2013, the Department of State released the 2012 Country Reports on Human Rights Practices. The Department of State submits the reports to Congress annually in compliance with §§ 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (“FAA”), as amended, and § 504 of the Trade Act of 1974, as amended. These reports are often cited as a source for U.S. views on various aspects of human rights practice in other countries. The reports are available at [www.state.gov/j/drl/rls/hrrpt/](http://www.state.gov/j/drl/rls/hrrpt/); Secretary of State John Kerry’s remarks on the release of the reports are available at [www.state.gov/secretary/remarks/2013/04/207791.htm](http://www.state.gov/secretary/remarks/2013/04/207791.htm).

##### 2. UN General Assembly Third Committee Resolutions

On November 19, 2013, the UN General Assembly’s Third Committee adopted four resolutions relating to ongoing, serious human rights abuses in Iran, North Korea, and Burma. Ambassador Samantha Power, U.S. Permanent Representative to the UN, delivered a statement on the resolutions, excerpted below and available at <http://usun.state.gov/briefing/statements/217757.htm>.

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On Iran, the Third Committee resolution expressed deep concern regarding ongoing human rights violations, including torture, restricting the fundamental freedoms of assembly, opinion and expression, and the systematic targeting of human rights defenders by the Government of

Iran. The resolution called on the government to fully abide by its human rights obligations, eliminate discrimination against religious and ethnic minorities, address pervasive gender inequality, and respond positively to the UN Special Rapporteur's request to visit Iran to carry out his mandate.

On North Korea, the General Assembly rightly expressed serious concern about the deteriorating human rights situation, including torture, inhumane conditions of detention, public executions, and "all pervasive and severe" restrictions on the freedoms of thought, conscience, religion, expression and peaceful assembly. The resolution urged the government to cooperate both with the Secretary-General's Special Rapporteur for Human Rights as well as with the Human Rights Council's newly established commission of inquiry.

In contrast to the other ... resolutions, this year's resolution on Burma was able to welcome the government's efforts to build democratic institutions. Nonetheless, we share the General Assembly's concern that arbitrary arrests and detentions of Burmese human rights defenders continue. Today's resolution urges the government to address these issues, as well as the violence, displacement and dire economic conditions affecting ethnic and religious minorities, including the Rohingya in the Rakhine State and Muslim minorities throughout the country.

Through the adoption of these resolutions, the international community has once again demonstrated its support for the fundamental freedoms and dignity of individuals around the world, as enshrined in the Universal Declaration of Human Rights.

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### **3. ICCPR**

On July 3, 2013, the United States filed its response to the Human Rights Committee's list of issues concerning the 2011 Fourth Periodic Report of the United States of America to the UN Committee on Human Rights Concerning the International Covenant on Civil and Political Rights ("ICCPR" or "Covenant"). The U.S. response is available at [www.state.gov/j/drl/rls/212393.htm](http://www.state.gov/j/drl/rls/212393.htm). The review of the Fourth Periodic Report of the United States, scheduled for the Human Rights Committee's 109<sup>th</sup> session, was postponed at the request of the United States due to the U.S. federal government shutdown during the month of October. The review was subsequently rescheduled for March 13-14, 2014 during the Committee's 110<sup>th</sup> session.

### **4. Human Rights Council**

#### **a. Overview**

The United States continued its participation on the Human Rights Council ("HRC") in 2013, after its election to a second term in 2012. On February 26, 2013, at the 22<sup>nd</sup> session of the HRC, Esther Brimmer, Assistant Secretary of State for International

Organization Affairs, delivered the first U.S. intervention of its second term. Assistant Secretary Brimmer summarized the key achievements of the HRC during the United States' first term and identified work that remains for the HRC. Her remarks are excerpted below and available at <http://geneva.usmission.gov/2013/02/26/esther-brimmer-presents-u-s-priorities-at-hrc-22-commencement/>.

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... In September 2009, I delivered the first U.S. intervention as a member of this esteemed body, in which the United States pledged to pursue broad international cooperation, both with traditional partners and across longstanding divides, to advance universal human rights and strengthen the Human Rights Council's ability to achieve its essential mandate. I set out four aspirations that this Council must work to attain: universality, dialogue, principle, and truth. And in the three and a half years since the United States first joined the Human Rights Council, we have seen much progress toward these aspirations, and have reached a number of impressive achievements, principally through broad cooperation and collaboration by this Council's diverse membership.

First among these achievements has been the Human Rights Council's heightened willingness and capacity to address heinous human rights violations. Over the past three years, the Council has taken concrete measures, often in real-time, that shine the spotlight on abuses, and muster international political will toward ending them. It is not a coincidence that violence can imperil human rights, and the Human Rights Council has not shied away from acting amidst ongoing instability and violence. Faced with crises in Libya and Cote d'Ivoire, the Council quickly established new mechanisms for documenting human rights abuses and violations, which have built a strong foundation for future accountability processes and helped maintain international pressure on human rights violators. This Council spoke the truth about human rights violations and abuses in some of the world's most difficult crises, and we must continue to do so.

Another remarkable advance was Resolution 16/18, through which the Council—after years of chronic division—came together to combat religious intolerance, including discrimination and violence. We applaud the leadership that Turkey, Pakistan, and other countries have shown on this resolution, and appreciate as well the support of the OIC Secretary-General. The international consensus on this issue offers a practical and effective means to fight intolerance, while avoiding the false choice of restricting the complementary and mutually-dependent freedoms of religion and expression. In today's networked world, hateful, insulting, and intolerant speech can be marginalized and defeated, not by less speech, but by more, only by encouraging positive and respectful expression. Countless examples have taught us that attempting to outlaw free expression is as dangerous as it is ineffective. That is why Resolution 16/18's catalogue of positive tools to fight intolerance—including education, nondiscrimination laws, and protecting places of worship—is so important, and why we must all continue our joint efforts to translate this consensus into concrete implementation of those policies. This pursuit of honest, open dialogue among member states was one of the themes I pledged the United States would pursue during our first term on the Council, and we will continue to do so during the coming three years.

The Council also has demonstrated its commitment to another benchmark I underscored in 2009, namely the universality of human rights obligations. In establishing the first ever special rapporteur on freedom of peaceable assembly and freedom of association, the Council took an important step towards helping to protect and realize these crucial rights. The Council's creation of a working group on discriminatory impediments to women's human rights demonstrated our commitment to combat continuing gender bias in all its forms. By formally recognizing that lesbian, gay, bisexual, and transgender men and women enjoy the same human rights as everyone else, the Council helped advance true universality of human rights worldwide. And completion of the first round of Universal Periodic Reviews, in which the human rights record of every single UN member state was subject to scrutiny before the Human Rights Council, has demonstrated that no country is exempt from the universality of its human rights obligations.

But as I speak here today for the first time since the United States was elected to a second term on the Human Rights Council, I must say that for all these achievements, the work of the Council remains unfinished, so long as any of us cannot exercise those fundamental rights that we all share by virtue of our common humanity. It is toward those unfinished tasks that we must devote ourselves in this twenty-second session, and beyond.

The Council's work remains unfinished so long as the Assad regime continues its outrageous attacks on innocent civilians, and disregards its international human rights obligations. The Human Rights Council acted quickly and courageously as one of the earliest voices to condemn these heinous depredations, and through multiple regular and special sessions has continued to call for an end to the violence. Given the essential role the independent commission of inquiry has played, the United States will strongly support at this session the extension of the commission's mandate for another year.

The Council's work remains unfinished so long as millions of North Koreans face untold human rights abuses amidst a daily struggle for survival. Principle demands that the countless human rights violations exacted by the Pyongyang government merit international condemnation and accountability. That is why the United States will support the call by High Commissioner Pillay and Special Rapporteur Marzuki for a mechanism of inquiry to document the DPRK's wanton human rights violations.

The Council's work remains unfinished so long as Sri Lanka continues to fall short in implementing even the recommendations of its own Lessons Learned and Reconciliation Commission, or in addressing the underlying sources of its longstanding ethnic conflict. Last year's HRC resolution encouraged brave civil society groups on the ground to continue their efforts, and the United States will introduce another resolution at this session to ensure that the international community continues to monitor progress, and to again offer assistance on outstanding reconciliation and accountability issues. The United States hopes this resolution will be a cooperative effort with the Sri Lankan government.

And the Council's work remains unfinished so long as it continues to unfairly single out Israel, the only country with a stand-alone agenda item. Until this Council ceases to subject Israel to an unfair and unacceptable bias, its unprincipled and unjust approach will continue to tarnish the reputation of this body, while doing nothing to support progress toward the peace among Israelis and Palestinians that we all desire so deeply.

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The United States participated in three sessions of the HRC in 2013. The key outcomes of each session for the United States are summarized in fact sheets issued by the State Department. The key outcomes at the 22<sup>nd</sup> session, described in a March 25, 2013 fact sheet, available at [www.state.gov/r/pa/prs/ps/2013/03/206606.htm](http://www.state.gov/r/pa/prs/ps/2013/03/206606.htm), include: resolutions on Sri Lanka, North Korea, Syria, Iran, Burma, Libya, and Mali as well as resolutions relating to cross-cutting human rights priorities relating to human rights defenders, genocide prevention, and freedom of religion or belief and combating religious intolerance. The key outcomes at the 23<sup>rd</sup> session are described in a June 19, 2013 fact sheet, available at <http://geneva.usmission.gov/2013/06/20/key-u-s-outcomes-at-the-un-human-rights-council-23rd-session/>. They include responses to the situations in Syria, Belarus, Eritrea, and Egypt and resolutions on freedom of expression, and women's human rights. The key outcomes at the 24<sup>th</sup> session are summarized in the State Department's October 1, 2013 fact sheet, available at [www.state.gov/r/pa/prs/ps/2013/10/215010.htm](http://www.state.gov/r/pa/prs/ps/2013/10/215010.htm). They include responses to the situations in Syria, Sudan, the Democratic Republic of the Congo, the Central African Republic, Somalia, and Sri Lanka, as well as resolutions on freedom of assembly and association, on preventing reprisals, condemning female genital mutilation, on the rights of indigenous peoples, and on human rights in sports and the Olympics.

**b. *Actions regarding Syria***

The HRC adopted several additional resolutions addressing the crisis in Syria in 2013 and supported the ongoing work of the Commission of Inquiry ("COI"). Resolution 22/24, adopted at the 22<sup>nd</sup> session on March 22, 2013, was co-sponsored by the United States. U.S. Ambassador to the HRC Eileen Chamberlain Donahoe introduced the resolution in a statement available at <http://geneva.usmission.gov/2013/03/22/syria-8/>. She said:

This resolution calls further international attention to the brutality of the Assad regime and the ongoing serious violations of international humanitarian law and international human rights law in Syria. We are grateful that the COI will continue its important work to document violations and abuses committed by all parties to the conflict.

On May 29, 2013, during the 23<sup>rd</sup> session of the HRC, as a result of a joint request made by Qatar, Turkey, and the United States, the HRC held an urgent debate on "The deteriorating situation of human rights in the Syrian Arab Republic, and the recent killings in Al Qusayr." Ambassador Donahoe's statement during the Urgent Debate is available at <https://geneva.usmission.gov/2013/05/29/u-s-statement-at-the-urgent-debate-on-syria/>. She said:

The assault on Qusayr is the latest regime attempt to use sectarian-driven war to divide the Syrian people. We are deeply concerned about the risks of increasing sectarian violence from all sides. We condemn Hizballah's direct role in the



hostilities, a role which inflames regional tensions, escalates violence inside Syria, and incites instability in Lebanon. The regime has an opportunity to calm these tensions now by ending its assault.

There can be no lasting peace in Syria without justice for the horrific crimes committed in Qusayr and elsewhere. There is no place in a future Syria for Assad or members of his regime who have ordered or committed atrocities. As the international community works to support a political settlement, based on the principles outlined in the Geneva Communiqué, we also must also support the groundwork for accountability.

The Assad regime and its supporters who commit crimes against the Syrian people should know that the world is watching, and they will be held accountable.

Ambassador Donahoe also introduced one of the resolutions on Syria at the 23<sup>rd</sup> session of the HRC on June 14, 2013. Her statement is available at <http://geneva.usmission.gov/2013/06/14/ambassador-donahoes-introduction-statement-on-syria/>. Ambassador Donahoe described the resolution in her introduction:

...This resolution condemns in the strongest terms all massacres taking place in Syria, such as most recently in Al-Qusayr, and the intervention of all foreign combatants in Syria, including those fighting on behalf of the regime and in particular Hezbollah, because their involvement and role in ongoing atrocities further exacerbates the deteriorating human rights and humanitarian situation.

The resolution also focuses on the continued lack of cooperation of the Government of the Syrian Arab Republic with the commission of inquiry, in particular the persistent denial of access to Syria for members of the commission. It is long past time that the Syrian government cooperate with the mechanisms of this Council.

Ambassador Donahoe delivered another statement after Resolution 23/26 was adopted on June 14, 2013 by a vote of 37 in favor, one against, with nine abstentions. Her statement on the adoption of the resolution, excerpted below, is available at <http://geneva.usmission.gov/2013/06/14/the-u-s-the-adoption-of-the-resolution-on-the-human-rights-situation-in-syria/>.

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The resolution had several purposes, the first of which is to press for immediate unfettered access for the commission of inquiry. The resolution welcomes the statement by the Syria Opposition Coalition of June 5, 2013 offering cooperation with the commission of inquiry in opposition-

controlled areas, and denounces the Syrian authorities' denial of access which has hampered investigation of widespread and systematic gross violations of human rights as well as violations of international humanitarian law.

Further, the resolution condemns in the strongest terms the continued widespread and systematic violence by Syrian authorities and government-affiliated shabbiha militias, as well as human rights abuses and violations of international law by all parties including anti-government armed groups. The resolution notes the finding of the commission of inquiry that the intensity and scale of the violations committed by government forces and affiliated militia are unmatched.

The United States welcomes the clarity of the resolution's condemnation of the massacres taking place in Syria, and the denunciation of the role of foreign fighters, especially Hizbollah, fighting on behalf of the regime. Recalling the most recent urgent debate on the massacre in Al-Qusayr, the resolution condemns the influx of all foreign combatants, in particular Hizbollah, whose involvement has had a significant deleterious effect on the human rights and humanitarian situation on the ground, which has serious negative consequences for neighboring countries.

Hizbollah's intervention on behalf of the regime is unacceptable, and could have devastating consequences for Syria and the entire region. The UN Secretary General, the High Commissioner for Human Rights, and the independent Commission of Inquiry have all condemned Hizbollah's intervention. It is only appropriate that the HRC do so as well.

The desperate humanitarian situation inside Syria is deepening. Access for relief efforts is an urgent priority. The resolution we have just adopted also demands that Syrian authorities facilitate the access of humanitarian organisations to all people in need, by allowing aid agencies to use the most efficient routes and providing authorization for cross-border humanitarian operations. One week ago, the UN issued the largest appeal in its history to help those caught up in the conflict. Humanitarian agencies have estimated that over 10 million Syrians may be in need of aid by year's end. With this resolution the Human Rights Council urges all donors to act rapidly to provide financial support for this enormous and essential effort.

This tragic chapter in Syria's history began over 800 days ago with the Assad regime's decision to meet peaceful protests with violence, a response which started this conflict that has killed more than 90,000 people. We reiterate our call, united with the Syrian people and members of the international community, for an immediate end to all violations of human rights and abuses, but especially the Assad regime's egregious, widespread and continued violations of human rights and international humanitarian law.

The international community must continue to support documentation and other efforts to lay the groundwork for accountability for human rights violations, even as work continues toward a political settlement based on the principles outlined in the Geneva Communiqué. The United States is helping Syrians prepare for this accountability by supporting the documentation of violations committed by all sides of the conflict, and bolstering the capacity of civil society organizations to build the foundations for lasting peace.

The Human Rights Council is again showing its determination and responsibility in using the authority and tools entrusted to it to respond to urgent crises in real time. It is also rightly fulfilling the important role of drawing global attention to gross violations of human rights and collecting the evidence necessary to ensure future accountability for human rights violations and crimes against humanity.

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Before the 24<sup>th</sup> session of the HRC began in September 2013, the Assad regime committed a chemical weapons attack on August 21, 2013, causing the death of over one thousand people, including hundreds of children. For more on the United States response to this chemical weapons attack, see Chapter 19.F.1. Ambassador Donahoe referred to the August 21 attack in her September 16, 2013 statement at the presentation of the report by the UN commission of inquiry on Syria at the 24<sup>th</sup> session of the HRC. Her statement, excerpted below, is available in full at <http://geneva.usmission.gov/2013/09/16/u-s-statement-presentation-of-report-by-un-commission-of-inquiry-on-syria/>.

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For more than two years, the regime of Bashar Al-Asad has turned the full force of its firepower against the Syrian people, including most recently its use of chemical weapons in the Damascus suburbs on August 21. The world will not forget the horrific images of innocent children choking as they inhaled the toxic fumes, nor will we forget the more than 100,000 people who have died during this conflict.

We deplore the acceleration of civilian deaths, including from constant regime attacks during Ramadan. We equally deplore the increasing deaths due to torture in regime facilities, the continued detention of numerous human rights activists without due process, and the impact of shelling on civilians. We echo the Commission's recommendations for the government to cease these violations and grant unfettered Commission access to Syria.

We reiterate the need for accountability for the violations and abuses committed in Syria and call on the international community to support such efforts. We also call on the Syrian people to refrain from acts of retributive violence and to focus on building a sustainable peace that includes justice and accountability.

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At its 24<sup>th</sup> session, the HRC adopted another resolution on Syria. Ambassador Donahoe introduced the resolution in a statement available at <http://geneva.usmission.gov/2013/09/27/u-s-introduces-resolution-on-syria-at-the-human-rights-council/>. She described the resolution as follows:

The resolution that we present today has three key aims. First, to condemn in the strongest terms the ongoing violations of international humanitarian law and the violations and abuses of international human rights law. Second, to call for full and unfettered access throughout Syria for the UN mandated commission of inquiry and humanitarian agencies. Third, to highlight the need for accountability for serious violations of international humanitarian law and human rights law. The resolution thus encourages states to take steps to support and enable current and future accountability efforts.

Resolution 24/22 was adopted on September 27, 2013 with 40 votes in favor, one against, and six abstentions. Ambassador Donahoe participated in a joint press briefing with representatives of the United Kingdom, Turkey, and France following adoption of the resolution. The transcript of her remarks at that press briefing is available at <http://geneva.usmission.gov/2013/09/27/transcript-press-briefing-following-adoption-of-hrc-resolution-on-syria/>.

**c. *Actions regarding Sri Lanka***

On March 21, 2013, at its 22<sup>nd</sup> session, the HRC adopted a resolution on promoting reconciliation and accountability in Sri Lanka that followed up on resolution 19/2 adopted in 2012. See *Digest 2012* at 140 for background on resolution 19/2. Ambassador Donahoe introduced resolution 22/1 in a statement available at <http://geneva.usmission.gov/2013/03/21/sri-lanka-resolution-2>. Ambassador Donahoe described the resolution in her introduction:

This resolution welcomes and acknowledges important progress that has been made in certain areas in Sri Lanka, but also recognizes that much remains to be done. Through this resolution, we encourage the Government of Sri Lanka to implement the constructive recommendations of the Lessons Learnt and Reconciliation Commission (LLRC) and the recommendations in the High Commissioner's report, to take additional measures to fulfill its obligations and commitments on accountability and reconciliation, and to address concerns on issues of the rule of law and human rights in Sri Lanka. The United States stands ready to assist with this vital work.

In addition, this resolution highlights the constructive role of the OHCHR and special procedures mandate holders in providing technical assistance and advice on addressing these concerns, encouraging the government of Sri Lanka to cooperate with those actors. The United States is grateful for the active and constructive engagement of many delegations on this text, which reflects input from a wide range of cross-regional delegations. We are committed to working constructively with Sri Lanka and the international community to help address these challenges. To that end, together with all of our co-sponsors and supporters, the United States asks that this Council adopt this resolution.

The resolution was adopted on March 21, 2013 with 25 votes in favor, 13 against, and eight abstentions. Ambassador Donahoe's statement following adoption of the resolution is available at <http://geneva.usmission.gov/2013/03/21/srilanka/>. Secretary of State John Kerry also issued a press statement after the HRC vote, available at [www.state.gov/secretary/remarks/2013/03/206486.htm](http://www.state.gov/secretary/remarks/2013/03/206486.htm). Secretary Kerry's statement included the following:

Today's vote in the UN Human Rights Council encourages the Government of Sri Lanka to continue on the path toward lasting peace and prosperity following decades of civil war and instability. This resolution, which builds on a similar 2012 resolution, reaffirmed that Sri Lanka must take meaningful action on reconciliation and accountability in order to move forward. The United States, together with international partners, calls upon the Government of Sri Lanka to fulfill its public commitments to its own people on these longstanding issues.

While some important progress has been made, there is much work still to be done. We look to the Government of Sri Lanka to implement the recommendations of the Lessons Learnt and Reconciliation Commission (LLRC) and to reverse recent negative developments on rule of law and human rights. The United States stands ready to assist with this vital work. I look forward to continuing our engagement with the Government of Sri Lanka and strengthening our friendship with the Sri Lankan people.

## **B. DISCRIMINATION**

### **1. Race**

#### ***a. Periodic report of the United States to the Committee on the Elimination of Racial Discrimination***

On June 12, 2013, the United States submitted its Periodic Report to the United Nations Committee on the Elimination of Racial Discrimination Concerning the International Convention on the Elimination of All Forms of Racial Discrimination ("CERD"). As explained in the introduction to the report, the United States submitted its initial, second, and third periodic reports in September 2000 as one document ("Initial Report") and submitted its fourth, fifth, and sixth period reports as one document in April 2007 ("2007 Report"). See *Digest 2000* at 347-50 and *Digest 2007* at 293-315. The United States submitted a one-year follow-up report on January 13, 2009. The 2013 submission responds to the Committee's requests for the seventh, eighth, and ninth periodic reports of the United States and provides an update on progress since the submission of its prior reports. Excerpts below address selected legal issues regarding U.S. implementation of CERD since 2008. The full report is available at [www.state.gov/j/drl/rls/cerd\\_report/210605.htm](http://www.state.gov/j/drl/rls/cerd_report/210605.htm).

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2. The United States has always been a multi-racial and multi-ethnic society, and its pluralism is increasing. We have made great strides over the years in overcoming the legacies of slavery,

racism, ethnic intolerance, and destructive laws, policies, and practices relating to members of racial and ethnic minorities. Indeed, fifty years ago, the idea of having a Black/African American President of the United States would not have seemed possible; today, it is a reality. We recognize, however, that the path toward racial equality has been uneven, racial and ethnic discrimination still persists, and much work remains to meet our goal of ensuring equality for all. Our nation's Founders, who enshrined in our Constitution their ambition "to form a more perfect Union," bequeathed to us not a static condition, but a perpetual aspiration and mission. This Report shares our progress in implementing our undertakings under the CERD and on related measures to address racial discrimination.

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6. ... [T]here are cases where we may not agree with the legal or factual premises underlying a given request for information or where concluding observations do not bear directly on obligations under the Convention; nevertheless, in the interest of promoting dialogue and cooperation, we have provided requested information to the degree possible. ...

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16. The United States legal system provides for special measures when circumstances so warrant. ... Recently, DOJ actively defended the undergraduate admission program of the University of Texas, which was challenged by two unsuccessful White candidates for undergraduate admission. The Texas program adopts a holistic approach—examining race as one component among many—when selecting among applicants who are not otherwise eligible for automatic admission by virtue of being in the top ten percent of their high school classes. The U.S. Court of Appeals for the Fifth Circuit upheld the University's limited use of race as justified by a compelling interest in diversity and as narrowly tailored to achieve a critical mass of minority students. The Supreme Court heard arguments in the case, *Fisher v. Texas*, in October 2012, and is expected to decide the case by June 2013. In its *amicus curiae* brief, the Solicitor General argued, on a brief signed by several federal agencies, that, like the University, the United States has a compelling interest in the educational benefits of diversity, and that the University's use of race in freshman class admissions to achieve the educational benefits of diversity is constitutional.

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18. Recent laws relating to discrimination, including discrimination based on race, color, and national origin, or minority groups, include:

- The Lilly Ledbetter Fair Pay Act, signed by President Obama in 2009, provides that the statute of limitations for bringing a wage discrimination claim, including claims alleging wage discrimination based on race or national origin, runs from the time an individual is "affected by application of a discriminatory compensation decision . . . including each time wages, benefits, or other compensation is paid." The law overrides a Supreme Court decision in *Ledbetter v. Goodyear Tire & Rubber Co.*, 500 U.S. 618 (2007).
- The Genetic Information Nondiscrimination Act of 2008 governs the use of genetic information in health insurance and employment decisions. Protected genetic

information includes genetic services (tests, counseling, education), genetic tests of family members, and family medical history. As it relates to racial and ethnic discrimination, this law prohibits an insurer or employer from refusing to insure or employ someone with a genetic marker for disease associated with certain racial or ethnic groups, such as sickle cell trait.

- The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 (Shepard-Byrd Act) creates a new federal prohibition on hate crimes, 18 U.S.C. 249; simplifies the jurisdictional predicate for prosecuting violent acts undertaken because of, inter alia, the actual or perceived race, color, religion, or national origin of any person; and, for the first time, allows federal prosecution of violence undertaken because of the actual or perceived gender, disability, sexual orientation or gender identity of any person.

- The American Recovery and Reinvestment Act of 2009 provided funding for programs that will help reduce discrimination and improve the lives of members of minority populations through education, training, and programs to end homelessness.

- The Patient Protection and Affordable Care Act (ACA) of 2010 provides many Americans access to health insurance. Section 1557 extends the application of federal civil rights laws to any health program or activity receiving federal financial assistance, any program or activity administered by an executive agency, or any entity established under Title 1 of the ACA.

- The Tribal Law and Order Act of 2010 gives tribes greater authority to prosecute and punish criminals; expands recruitment, retention, and training for Bureau of Indian Affairs (BIA) and tribal officers; includes new guidelines and training for domestic violence and sex crimes; strengthens tribal courts and police departments; and enhances programs to combat drug and alcohol abuse and help at-risk youth.

- The Claims Resolution Act of 2010 provides funding and statutory authorities for settlement agreements reached in the *In re Black Farmers Discrimination Litigation* (brought by Black/African American farmers who filed late claims in an earlier case concerning discrimination by the U.S. Department of Agriculture (USDA) in the award and servicing of farm loans), and also for several settlement agreements reached with regard to indigenous issues – the *Cobell* lawsuit (alleging U.S. government mismanagement of individual Indian money accounts), and four major Native American water rights cases.

- The Fair Sentencing Act of 2010 reduces sentencing disparities between powder cocaine and crack cocaine offenses, capping a long effort to address the fact that those convicted of crack cocaine offenses are more likely to be members of racial minorities.

- The financial reform legislation of 2010 includes a new consumer protection bureau that will help address the unjustified disproportionate effect of the foreclosure crisis on communities of color.

- The Violence Against Women Reauthorization Act of 2013, signed by President Obama in March of this year, reauthorizes critical grant programs created by the original Violence Against Women Act (VAWA) and subsequent legislation, establishes new programs, and strengthens federal laws. Section 3 prohibits discrimination on the basis of, inter alia, actual or perceived race or national origin in any VAWA-funded program or activity.

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32. With regard to the recommendation in paragraph 13 of the Committee's Concluding Observations that the United States establish appropriate mechanisms to ensure a coordinated

approach towards the implementation of the Convention at the federal, state, and local levels, the United States fully agrees that mechanisms designed to strengthen coordination are critical, and numerous such mechanisms do exist. The framework within which human rights are promoted and coordinated in the United States is described in paragraphs 124 – 130 of the Common Core Document. All federal agencies with mandates related to non-discrimination, including DOJ, EEOC, ED, HUD, DHS, DOL and others, coordinate within the federal government, as well as with state and local authorities, human rights commissions, and non-governmental entities. For example, a hallmark of DOJ's civil rights work in this Administration is partnership and collaboration – strengthening relationships with other agencies, state Attorney General offices throughout the nation, and community and civil society partners to leverage resources and coordinate efforts to maximize impact. DOJ/CRT coordinates enforcement of Title VI of the Civil Rights Act of 1964 and assists other agencies with Title VI and other enforcement responsibilities, ensuring that recipients of federal financial assistance (including state and local governments) do not discriminate in their programs, including on the basis of race, color and national origin. Over the last four years, DOJ has provided training, technical assistance, and counsel to civil rights offices in federal government agencies, and has reviewed other agencies' Title VI implementing regulations and guidance. DOJ has also created a Title VI Interagency Working Group, which facilitates interagency information sharing to strengthen Title VI enforcement efforts at the federal level. Additionally, several of the UPR Working Groups and the Equality Working Group were created with a view to further strengthening coordination and U.S. domestic implementation of human rights treaty obligations and commitments related to non-discrimination and equal opportunity.

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47. With regard to Article 4 and paragraph 18 of the Committee's Concluding Observations, the United States is deeply committed to combating racial discrimination. The United States has struggled to eliminate racial discrimination throughout our history, from abolition of slavery to our civil rights movement. We are not at the end of the road toward equal justice, but our nation is a far better and fairer place than it was in the past. The progress we have made has been accomplished without banning speech or restricting freedom of expression, assembly or association. We believe that banning and punishing offensive and hateful speech is neither an effective approach to combating intolerance, nor an appropriate role for government in seeking to promote respect for diversity. As President Obama stated in a speech delivered in Cairo, Egypt in June 2009, suppressing ideas never succeeds in making them go away. In fact, to do so can be counterproductive and even raise the profile of such ideas. We believe the best antidote to offensive and hateful speech is constructive dialogue that counters and responds to such speech by refuting it through principled arguments. In addition, we believe that governments should speak out against such offensive speech and employ tools to address intolerance that include a combination of robust legal protections against discrimination and hate crimes, proactive government outreach, education, and the vigorous defense of human rights and fundamental freedoms, including freedom of expression. It is incumbent upon both governments and members of society to model respect, welcome diversity of belief, and build respectful societies based on open dialogue and debate.

51. Consistent with the First Amendment, we do not permit speech that incites imminent violence. This is a limited exception to freedom of expression, and such speech is only unlawful



when it “is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.” *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969). Speech may also be restricted based on its content if it falls within the narrow class of “true threats” of violence. Moreover, numerous federal and state laws in the United States prohibit hate crimes. Federal statutes punish acts of violence or hostile acts motivated by bias based on race, ethnicity, or color and intended to interfere with the participation of individuals in certain activities such as employment, housing, public accommodation, and use of public facilities. See, e.g., 19 U.S.C. 245 (federally protected activities), 18 U.S.C. 3631 (housing). In addition, 47 states have hate crimes laws, as do U.S. territories. The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act is a significant expansion of federal hate crimes laws. The Act creates a new criminal code provision, 18 U.S.C. 249, that criminalizes the willful causing of bodily injury (or attempting to do so with fire, firearm, or other dangerous weapon) when the crime was committed because of the actual or perceived race, color, religion, national origin of any person and that, unlike Section 245, does not require proof of intention to interfere with a federally protected activity. The law also provides funding and technical assistance to state, local and tribal jurisdictions to help them prevent, investigate, and prosecute hate crimes. Subsequent to enactment of the Shepard-Byrd Act, DOJ/CRT worked with U.S. Attorneys’ Offices, the Federal Bureau of Investigation (FBI), and DOJ/CRS across the country to ensure that federal prosecutors, federal law enforcement agents, state and local law enforcement officers, non-governmental organizations, and interested members of the public were trained on the Act’s requirements. Of particular importance, DOJ/CRT has trained law enforcement officers who are the first responders to assaults or other acts of violence so that they know what questions to ask and what evidence to gather at the scene to allow prosecutors to make an informed assessment of whether a case should be prosecuted as a hate crime.

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62. Regarding paragraph 22 of the Committee’s Concluding Observations, the United States faces challenges in both its provision of legal representation to indigent criminal defendants and its provision of free and affordable civil legal services to the poor and middle class. We recognize that these challenges are felt acutely by members of racial and ethnic minorities.

63. To address these issues, DOJ established the Access to Justice Initiative (ATJ) in March 2010. ATJ’s mission is to help the justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth and status. ATJ has worked to expand research and funding to improve the delivery of indigent defense services. In 2012, DOJ’s Office of Justice Programs awarded nearly \$3 million in grants for this purpose and has committed to approximately \$2 million additional in 2013. ATJ has also worked to strengthen defender services in tribal courts and, in partnership with the BIA, has launched the Tribal Court Trial Advocacy Training Program, which provides free trainings to public defenders, prosecutors, and judges who work in tribal courts.

64. To strengthen civil legal services, ATJ is working with other federal agencies to determine whether existing federal safety-net grant programs could perform more successfully by incorporating legal services. Specifically, ATJ staff has established partnerships with agencies working to promote access to health and housing, education and employment, and family stability and community well-being, to remove unintended barriers that prevent legal aid

providers from participating as grantees or sub-grantees. ATJ also supports expanded civil legal research through collaboration with legal scholars and the American Bar Foundation. ATJ is providing technical assistance to more than a dozen states considering creation of new access to justice commissions, which generally support civil legal services at the state level. Responding to a challenge from ATJ, the Conference of Chief Justices unanimously adopted a resolution in 2010 urging the approximately two dozen states without active commissions to establish them, <http://ccj.ncsc.dni.us/AccessToJusticeResolutions/resol8Access.html>. ATJ staff has also worked with the American Bar Association (ABA) Resource Center for Access to Justice Initiatives, and the Public Welfare Foundation to develop a national strategy for establishing and strengthening commissions, and ATJ staff now serves on a new national ABA Access to Justice Commission Expansion Project Advisory Committee.

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66. With regard to paragraph 20 of the Committee's Concluding Observations, a number of steps have been taken in recent years to address racial disparities in the administration and functioning of the criminal justice system. The Fair Sentencing Act, enacted in August 2010, reduced the disparity between more lenient sentences for powder cocaine charges and more severe sentences for crack cocaine charges, which are more frequently brought against minorities. Based on a request by the Attorney General, the Sentencing Commission voted to apply retroactively the guideline amendment implementing the Fair Sentencing Act. As of December 2012, 6,626 federal crack offenders' sentences had been reduced as a result of retroactive application of the Fair Sentencing Act. Of these, 93.5% were Black/African American or Hispanic/Latino. DOJ also intends to conduct further statistical analysis and issue annual reports on sentencing disparities in the criminal justice system, and is working on other ways to implement increased system-wide monitoring steps. DOJ has also pledged to work with the Sentencing Commission on reform of mandatory minimum sentencing statutes and to implement the recommendations set forth in the Commission's 2011 report to Congress, Mandatory Minimum Penalties in the Federal Criminal Justice System. Finally, at the state and local level, many law enforcement authorities are implementing innovative solutions. For example, the Vera Institute for Justice has launched a program in several municipalities to help prosecutors' offices identify potential bias and to respond when bias is found.

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118. Since 2009, DOJ/CRT has worked to reinvigorate its pattern or practice enforcement program to combat de facto discrimination in the workplace. Between 2009 and 2012 DOJ filed 32 lawsuits under Title VII to address cases where there is a pattern or practice of employment discrimination, and it has obtained substantial relief for victims in cases brought by DOJ as well as cases referred by the EEOC. For example, DOJ/CRT challenged New York City Fire Department's (FDNY's) use of written firefighter examinations, which disproportionately screened out qualified African American and Latino applicants without enabling FDNY to predict job performance. In July 2009, a federal court ruled that New York City's use of the examinations constituted a pattern or practice of discrimination. The court ultimately ordered New York City to pay up to \$128 million in back pay damages to those unfairly rejected from jobs – DOJ's largest-ever damages award in an employment discrimination case – as well as to

provide priority job offers for 293 victims of the city's discrimination. The court also ordered the city to develop and implement new hiring practices at the FDNY, including a new written examination, which, unlike the challenged exams, actually tests for the skills and abilities that are important to the firefighter position. DOJ/CRT also successfully challenged the state of New Jersey's use of a written examination to decide who to promote to police sergeant, on the basis that the test disproportionately excluded African American and Hispanic police officers from promotions and did not test for the skills necessary to do the job. An agreement reached with New Jersey requires the state to use a new procedure to promote police officers based on merit, not race or national origin, and also to provide up to \$1 million in back pay and priority promotions to qualified officers who were denied promotions on a discriminatory basis.

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176. Regarding the recommendation in paragraph 29 of the Committee's Concluding Observations, the United States, in announcing its support for the United Nations Declaration on the Rights of Indigenous Peoples, went to great lengths to describe its position on various issues raised by the Declaration, <http://www.state.gov/documents/organization/153223.pdf>. Concerning the Committee's recommendation that the Declaration be used as a guide to interpret CERD treaty obligations, the United States does not consider that the Declaration – a non-legally binding, aspirational instrument that was not negotiated for the purpose of interpreting or applying the CERD – should be used to reinterpret parties' obligations under the treaty. Nevertheless, as stated in the United States announcement on the Declaration, the United States underlines its support for the Declaration's recognition in the preamble that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess certain additional, collective rights.

177. In response to paragraph 30 of the Committee's Concluding Observations, the United States strongly supports accountability for corporate wrongdoing regardless of who is affected, and implements that commitment through its domestic legal and regulatory regime, as well as its deep and ongoing engagement with governments, businesses, and NGOs in initiatives to address these concerns globally. The United States is a strong supporter of the business and human rights agenda, particularly regarding extractive industries whose operations can so dramatically affect the living conditions of indigenous peoples. In the context of extractive industries, one way we work to promote better business practices is through participation in the Voluntary Principles on Security and Human Rights Initiative (VPI), a multi-stakeholder initiative that promotes implementation of a set of principles that guides extractive companies on providing security for their operations in a manner that respects human rights. The Voluntary Principles discuss, inter alia, consultations with local communities, respect for human rights, and appropriate handling of allegations of human rights abuses in the context of maintaining the safety and security of business operations. The U.S. government has devoted significant resources to ensuring that the VPI has stable foundations to focus more effectively on implementation and outreach efforts. Working with other participants, the United States has helped develop an institutional framework to increase the efficiency and efficacy of VPI. Additionally, in the annual Country Reports on Human Rights Practices, the State Department has in recent years increased efforts to highlight the impacts and the lack of accountability surrounding the extraction of natural resources, including with regard to indigenous peoples.

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**b. Human Rights Council**

At the 22nd session of the HRC, the United States voted “no” on the resolution entitled “Intergovernmental Working Group on the Comprehensive Follow-Up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the Effective Implementation of the Durban Declaration and Programme of Action.” For background on Durban, see *Digest 2001* at 267-68, *Digest 2007* at 315-17, *Digest 2008* at 284-85, *Digest 2009* at 174-75, *Digest 2010* at 222-23, *Digest 2011* at 159-62, and *Digest 2012* at 148-50. The U.S. explanation of vote from the 22<sup>nd</sup> session of the HRC in March 2013 is excerpted below.

\* \* \* \*

The United States is profoundly committed to combating racism and racial discrimination and we firmly believe the United Nations must continue to work with all people and nations to find concrete ways to combat racism and racial discrimination wherever they occur.

We will continue to work in partnership with all countries of goodwill to uphold the human rights of all individuals and combat racism, racial discrimination, and related forms of intolerance in all forms and all places.

Our concerns about the 2001 Durban Declaration and Programme of Action (DDPA) and its follow up are well known, including its unfair and unacceptable singling out of Israel and its endorsement of overly broad restrictions on freedom of expression.

Due to these concerns with the DDPA and given that the Intergovernmental Working Group is focused on implementation of the DDPA, we cannot support renewing the Working Group’s mandate, as this resolution does.

We must therefore vote no on this text.

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Also at the 22<sup>nd</sup> session of the HRC, the United States abstained from a resolution on racism and education due to its emphasis on the DDPA. U.N. Doc. A/HRC/RES/22/34. The U.S. explanation of vote on the resolution follows.

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The United States strongly supports the goal of this resolution introduced by Brazil, Portugal, Mozambique, and other core group members: promoting education as a way to eliminate racism and racial discrimination. The United States is committed to working with our global partners, both bilaterally and multilaterally, in the fight against racism and racial discrimination, including through education. Early last year the United States and Brazil helped the UN Educational, Scientific, and Cultural Organization (UNESCO) launch a multilateral initiative, “Teaching

Respect for All,” to combat racism and promote tolerance. The program will develop policy guidelines and materials that will be made available to interested educators and policymakers wishing to integrate the anti-discrimination theme into existing curricula. In April, the materials will be introduced on a pilot basis in ten countries, including Brazil.

Domestically, the United States federal government, as part of its role in public education to support and partner with states, has made it a priority to develop or strengthen initiatives to continue to close achievement and opportunity gaps in education. The U.S. Department of Education’s efforts to address racial discrimination have included issuing guidance to help school districts avoid racial isolation and achieve diversity in schools and to address the civil rights implications of student-on-student harassment or bullying based on race, color, and national origin.

Against this backdrop, we were pleased when Council members began negotiating this resolution. We hoped that this Council would be able to address an important issue concerning racism while avoiding contentious debates over the 2001 Durban Declaration and Programme of Action (DDPA).

Regrettably, at the insistence of a small number of delegations, the resolution focuses heavily on the DDPA, unnecessarily and excessively preserving and reiterating its language. Our objections to the Durban process and resulting outcome documents are well known. It is unnecessary and inappropriate for this resolution to commemorate or entrench statements made in the DDPA adopted more than ten years ago. Instead, it should focus states on the real-world challenges with respect to combating racism and racial discrimination, including through education.

For these reasons, the United States must call a vote and abstain on this resolution.

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The United States again voted “no” on the annual resolution entitled “From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance.” See *Digest 2012* at 147 for the U.S. explanation of vote on the resolution at the 21<sup>st</sup> session of the HRC. The U.S. explanation of vote from the 24<sup>th</sup> session of the HRC in September 2013 is excerpted below.

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The United States remains fully and firmly committed to combating racism, racial discrimination, and related forms of intolerance. We believe the International Convention on the Elimination of All Forms of Racial Discrimination (“CERD”) provides comprehensive protections in this area and constitutes the relevant international framework to address all forms of racial discrimination.

For the United States, our commitment to combat these problems is rooted in the saddest chapters of our history and reflected in the most cherished values of our union. It is an ongoing challenge. We will continue to work with civil society and all nations of goodwill to combat

racism, racial discrimination, and related forms of intolerance in all forms and all places, including through enhancing our implementation of the CERD.

We remain deeply concerned about speech that advocates national, racial, or religious hatred, particularly when it constitutes incitement to violence, discrimination, or hostility. However, based on our own experience, the United States remains convinced that the best antidote to offensive speech is not bans and punishments but a combination of three key elements: robust legal protections against discrimination and hate crimes, proactive government outreach to racial and religious groups, and the vigorous protection of freedom of expression, both on-line and off-line.

We regret that we cannot support this resolution for a number of reasons, including the ones described here. We believe it serves as a vehicle to prolong the divisions caused by the Durban conference and its follow-up rather than providing a concrete approach for the international community to combat racism and racial discrimination. Our concerns about the Durban Declaration and Program of Action and the outcome of the Durban review conference are well-known, including the DDPA's unfair and unacceptable singling out of Israel and the endorsement of overly broad restrictions on freedom of expression that run counter to the U.S. commitment to robust free speech.

We are also concerned about the resolution's insistence that the UN General Assembly adopt in full the Working Group of Experts on People of African Descent's proposed Programme of Action for a Decade for People of African Descent. The Programme of Action's proposal to create several new human rights instruments and programs, will—in our view—do little to advance the needs of those it attempts to serve. At the very least this initiative should be subject to a full and transparent intergovernmental debate.

Finally, we underscore our concerns about the additional costs this resolution will impose on the UN's regular budget. In view of the significant constraints on the UN's regular budget, and the limited ability of member states to provide increasing amounts of resources to enable OHCHR to perform the substantial amount of work that this body has requested, we stress the need for this body to consider carefully the resource implications of such requests before making them.

For these reasons we cannot support this resolution and have voted no.

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**c. *UN General Assembly***

The United States supported the UN General Assembly resolution proclaiming an international decade for people of African descent, adopted without a vote on December 23, 2013. U.N. Doc. A/RES/68/237. The U.S. explanation of position on the resolution is excerpted below.

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The United States remains fully and firmly committed to upholding the human rights of all people and to combating racism and racial discrimination. We are pleased to join consensus on

this resolution and look forward to the work ahead in helping to elaborate what we hope will be a successful program of action for the International Decade for People of African Descent.

Our own history demonstrates that when we reduce discrimination faced by minority women, men, and children, including those of African descent—whether in the fields of education, access to credit, entrepreneurship, or employment opportunities—we all benefit from their talents and contributions. The United States has long recognized the importance of commemorating and celebrating these contributions, including through an annual African American History Month. We support a global effort to promote knowledge of, and respect for, the cultural heritage and contributions to societies of people of African descent.

We welcome the additional time allotted for work on the program of action. We also appreciate that the final version of that program of action will not be based solely on the draft prepared by the Working Group on Persons of African Descent. We have previously expressed concerns about the Working Group's draft, to the extent it calls for multiple new instruments and mechanisms of questionable value.

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## **2. Gender**

### ***a. Sexual violence in conflict and emergencies***

#### ***(1) United Nations***

On March 12, 2013, the UN Secretary-General presented a report on sexual violence in conflict. U.N. Doc. S/2013/149. The UN held an open debate on the subject of sexual violence in conflict on April 17, 2013 at which Ambassador Rosemary DiCarlo, U.S. Deputy Permanent Representative to the United Nations, delivered remarks. Ambassador DiCarlo's remarks are excerpted below and available at <http://usun.state.gov/briefing/statements/207646.htm>.

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Madame President, we welcome the Secretary General's report on sexual violence in conflict. Tragically, the report and today's briefings remind us that this issue is a global problem. It is also complex and multifaceted, from sexual violence used as a tool for coercive population displacement to forced marriages by armed groups to the challenges of widespread unreporting of abuse and the plight of children born out of rape.

Today, I would like to draw attention to the need for greater emphasis on prevention, including at the communal level and within the UN system for engaging parties to conflict to address sexual violence and for integrating sexual violence prevention and response efforts into security and justice sector reform.

At the community level, improving prevention of sexual violence requires better understanding of existing protection mechanisms and leveraging grassroots networks that can provide local information to inform prevention efforts. There is progress in this area, for

example, the Community Policing Centers run by displaced persons in camps in Darfur and the enlistment of imams as advocates for sexual violence prevention in South Darfur.

For UN missions, better prevention involves equipping peacekeepers and civilian staff with the guidance and expertise to respond to early information about threats of large-scale abuses. The training modules designed by the United Nations are a positive step in that direction, as is the creation of the UN International Network of Female Police Peacekeepers, which links over a thousand UN female police officers around the world to share best practices as well as advocate and mentor female police.

Bringing deeper gender expertise to UN field missions is essential for enhanced prevention of sexual violence. UN leadership in New York and in the field should commit to greater presence of gender experts and women protection advisors in UN missions. Furthermore, the deployment of such experts should be routine in UN technical assessment missions. We note the particular need for this expertise in Libya to address the root causes of sexual violence perpetrated during the conflict and the resulting trauma.

Encouraging parties to conflict to discuss sexual violence within their ranks, though challenging, is another critical avenue of prevention. The agreements that Special Representative Bangura brokered in the Central African Republic are models of this engagement. Changing behavior of armed parties requires political will as well as better monitoring and reporting and, where appropriate, the credible threat of consequences, such as "naming and shaming" and sanctions. Furthermore, mediators and envoys should routinely address conflict-related sexual violence in their ceasefire and peace negotiations.

But the spectrum of action for countering sexual violence must not be limited to the conflict and its conclusion. It must be prioritized throughout peace processes, including in the disarmament, demobilization and reintegration phase and in security sector reform. Rigorous vetting should ensure that perpetrators and those who have directed sexual violence are denied entry to the security sector. There should be strong protection mechanisms for civilians in close proximity of cantonment sites. The best way to ensure these protections is for women themselves to participate meaningfully in SSR and DDR program design and implementation and to have more women working and leading in the security sector. It is clear that female survivors of sexual violence are more likely to report to a female police officer or a women's police station, as our experience in Haiti has borne out. And women's civil society organizations need greater capacity to monitor, inform, and provide security services in conjunction with law enforcement authorities.

We must also build reformed national justice sectors and local institutions that can hold accountable those responsible for sexual violence while international criminal justice mechanisms continue to play their important role in ending impunity for these crimes. In last week's Declaration on Preventing Sexual Violence in Conflict, the G8 reaffirmed that rape and other forms of serious sexual violence in armed conflict are war crimes and emphasized the need to promote justice and accountability for such crimes.

These issues are hardly theoretical. The scourge of sexual violence persists. We are alarmed by horrific abuses occurring in Syria, including against men and boys ... The United States continues to support the documenting of evidence of atrocities committed by all sides for use in future Syrian-led transitional justice and accountability processes. Beyond Syria, the United States has proven its commitment to prevent and address gender-based violence around the world, providing more than \$100 million in 2012 to these efforts.



In closing, I want to commend the excellent work Special Representative Bangura and her staff are doing, and urge the entire UN system to give due attention to prevention efforts and facilitate the deployment of necessary expertise to conflict areas. The United States looks forward to continuing collaboration with all those who seek to end the scourge of sexual violence in conflict, including through a new Council resolution to address outstanding challenges on these issues.

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As alluded to by Ambassador DiCarlo in her remarks above, the Security Council considered a new resolution on women, peace, and security in 2013 that focuses specifically on the problem of sexual violence in conflict. U.N. Doc. S/RES/2106. Ambassador DiCarlo welcomed the adoption of the resolution on June 24, 2013 in a statement, excerpted below, and available at <http://usun.state.gov/briefing/statements/211047.htm>.

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The United States welcomes this opportunity to reaffirm the indispensable role of women in bringing peace and security to countries embroiled in conflict or emerging from it. Women's active—indeed integral—involvement in peace processes and transitional justice mechanisms, including to address sexual violence, is critical to laying the foundation for lasting peace.

The resolution that we have adopted today reinforces our collective efforts to prevent conflict-related sexual violence, hold perpetrators accountable for their crimes, and provide support and justice to the survivors. It also recognizes that national governments have primary responsibility for addressing this issue.

We see signs of progress, as some national governments are making justice systems more responsive and accessible to survivors of sexual violence. For example, Sierra Leone's new Sexual Offense Law gives stiff minimum sentences to perpetrators. Sri Lanka's Women's Protection Units provide female staff at police stations and privacy for women to report crimes. And this May, Somalia committed to ensuring the protection of victims, witnesses, journalists, and others who report on sexual violence—a necessity for strengthening legal cases and bringing these issues into the public sphere. Special Representative Bangura deserves special thanks for her significant work with authorities to reduce sexual violence in Somalia, Central African Republic, and the Democratic Republic of the Congo.

Mr. President, we applaud and appreciate the critical role that civil society, especially local women's groups, play in assisting survivors by providing them with medical care, counseling, and a political voice, and by facilitating their access to justice. The United States is proud to support Congolese organizations that provide free legal aid for survivors as well as training to provide provincial lawyers and mobile courts—courts that heard almost 3,000 cases in the DRC last year. The efforts of local civil society remain vital and deserve even greater support from national authorities and the international community.

We also commend international initiatives that bolster national capacity on this issue. The United Kingdom and Foreign Secretary Hague, in particular, deserves praise for leading the G8's development of an international protocol on the investigation and documentation of rape and

other forms of sexual violence in conflict. Through efforts like Justice Rapid Response, UN Women and others have provided valuable technical support to promote accountability by helping to document evidence for judicial processes. And the Security Council has adopted targeted sanctions against those who commit, command or condone sexual violence in places like the DRC. We strongly encourage UN sanctions committees to expand their use of this tool to fight impunity.

Indeed, we have made strides in addressing sexual violence in conflict, but there is still a long way to go. More countries should criminalize conflict-related sexual violence. Provisions that prohibit amnesty for perpetrators must be put into cease-fire and mediation agreements. And it is imperative that the international community and senior UN officials, at headquarters and in the field, support the mandate of the Special Representative of the Secretary-General on sexual violence in conflict.

Mr. President, the Security Council must continue to treat this threat to international peace and security with utmost gravity. Sexual violence in conflict cannot and must not be viewed narrowly as just a “women’s issue,” as sexual violence remains a horrific weapon of war that destroys individuals, devastates communities, and even destabilizes countries. Above all, let us remember, sexual violence is not cultural, it is criminal.

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(2) *U.S. “Safe from the Start” Initiative*

On September 23, 2013, Secretary Kerry announced the launch of a new U.S. initiative, “Safe from the Start,” to prevent and respond to gender-based violence in humanitarian emergencies worldwide. The State Department media note announcing the initiative is available at [www.state.gov/r/pa/prs/ps/2013/09/214552.htm](http://www.state.gov/r/pa/prs/ps/2013/09/214552.htm), and is excerpted in Chapter 17. The United States initially committed \$10 million to the initiative, to be used to fund the hiring of specialized staff and the development of programs and methods by the UN High Commissioner for Refugees (“UNHCR”), the International Committee of the Red Cross (“ICRC”), and other humanitarian agencies and organizations. The initiative builds on the U.S. National Action Plan on Women, Peace and Security and the U.S. Strategy to Prevent and Respond to Gender-based Violence Globally.

On November 13, 2013 in London, Assistant Secretary of State Anne C. Richard provided the U.S. intervention at the “Call to Action on Protection of Girls and Women in Emergencies” event co-sponsored by the United Kingdom and Sweden. Secretary Kerry also delivered remarks by video at the event, which are available at [www.state.gov/secretary/remarks/2013/11/215049.htm](http://www.state.gov/secretary/remarks/2013/11/215049.htm). Excerpts follow from Assistant Secretary Richard’s remarks, which are available at [www.state.gov/j/prm/releases/remarks/2013/219011.htm](http://www.state.gov/j/prm/releases/remarks/2013/219011.htm).

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As you'll hear by video from our Secretary of State John Kerry—the United States fully supports this agenda. We look forward to playing a leading role in the Call to Action going forward and urge other countries to join us.

We've heard again and again today just how high the stakes are for women and girls in emergencies—these can be matters of life and death and are always life-changing. We recognize that significant progress has been made over the last several years in strengthening our response to gender-based violence (GBV) during emergencies.

I continue to be struck by what I heard when I met with protection experts from humanitarian organizations right after becoming the Assistant Secretary for the Bureau of Populations, Refugees, and Migration in Spring 2012. The experts listed recent crises where different excuses were floated for not reacting quickly to address GBV: chaos in post-earthquake Haiti, cultural sensitivities in Pakistan, and security problems in the Dadaab camp in Kenya.

We also hear that “life saving” interventions must take precedence over protection of women and girls. Action to prevent and respond to GBV is often too little, too late. The unacceptable reality is that we are still failing. I fear that we are failing women and girls affected by the Syria crisis right now. And we need to make sure that our commitments today actually make women and girls safer tomorrow, throughout the world.

For our part, the United States is committing new resources to prevent threats to women and girls and ensure that survivors receive appropriate care—not as an afterthought, but as standard practice. In September of this year, Secretary Kerry announced an initial commitment of \$10 million as the foundation of our new initiative, *Safe from the Start*, which will go toward building core capacity of our leading partner organizations to address GBV from the earliest phases of emergencies.

These resources will be used to hire new staff, launch programs to make a difference in the field, and build the evidence base to expand our learning about what works to prevent harm to women and girls. This will require a long-term investment for the United States. This effort builds on U.S. policy initiatives such as the U.S. National Action Plan on Women, Peace and Security and the U.S. Strategy to Prevent and Respond to Gender Based Violence Globally.

In addition to our financial and policy commitments, we will be strengthening our own capacity as a government to address these issues through all aspects of our foreign policy and foreign assistance. Finally, we need to hold our own feet to the fire and make sure we follow through on these good interventions on the ground, where it counts.

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**b. *Eliminating violence against women***

The United States participated in a clustered interactive dialogue on freedom of expression and violence against women at the 23<sup>rd</sup> session of the HRC on June 3, 2013. The portion of the statement of the U.S. delegation relating to eliminating violence against women appears below. The portion on freedom of expression appears in Section M.2., *infra*. The statement in its entirety is available at <http://geneva.usmission.gov/2013/06/03/clustered-interactive-dialogue-on-freedom-of-expression-and-violence-against-women/>.

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The United States thanks Special Rapporteur Manjoo for her on-going work to address violence against women and welcomes her report on the State responsibility for eliminating violence against women. Women and girls everywhere should be able to live free from violence, exploitation, and abuse, and this report is an important contribution toward upholding the enjoyment of those rights.

The United States is committed to preventing and addressing violence against women and girls, and has prioritized this issue at home and around the world. In 1994, the U.S. Congress passed the Violence Against Women Act (VAWA), a critical step in changing the way violence against women is addressed in the United States. The United States Department of Justice implements the VAWA and provides financial and technical assistance to communities across the country to develop programs, policies, and practices aimed at ending intimate partner violence, sexual assault, and stalking, including legal assistance to survivors, court improvement, and training for law enforcement and courts. Between 1993 and 2007, the number of women killed by an intimate partner declined by 35 percent in the United States.

President Obama signed the reauthorization of the VAWA into law in March 2013. This most recent iteration closes jurisdictional gaps that had long compromised Native American women's safety and access to justice; ensures lesbian, gay, bisexual, and transgender victims have access to the services they need; and expands protections for immigrant women who experience violence.

In December 2011, the United States released its National Action Plan on Women, Peace, and Security (NAP) to empower women to act as equal partners in preventing conflict and building peace in countries threatened and affected by war, violence and insecurity. Through the NAP, the United States will support the development of effective accountability and transitional justice mechanisms that address crimes committed against women and girls.

To further advance our efforts to protect women and girls from violence, the United States released its first U.S. Strategy to Prevent and Respond to Gender-Based Violence Globally in August 2012. The Strategy calls on executive agencies to execute a comprehensive and multi-sector approach to preventing and responding to gender-based violence around the world.

The United States is committed to addressing violence against women and advancing gender equality as a cornerstone of our foreign policy.

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On June 14, 2013, the HRC adopted resolution 23/25, "Accelerating efforts to eliminate all forms of violence against women: preventing and responding to rape and other forms of sexual violence." U.N. Doc. A/HRC/RES/23/25. Ambassador Donahoe delivered the U.S. statement welcoming the resolution. Her statement is excerpted below and available at <http://geneva.usmission.gov/2013/06/14/u-s-welcomes-resolution-on-violence-against-women-and-girls/>.

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The United States welcomes the resolution entitled “Accelerating efforts to eliminate all forms of violence against women: preventing and responding to rape and other forms of sexual violence.” We strongly support this Council’s continuing commitment to the human rights of women and girls everywhere and to insisting upon the elimination of all forms of violence against women and girls. By renewing the mandate of the Special Rapporteur on violence against women, its causes and consequences, this Council is sustaining a vital tool in global efforts to eliminate violence against women and girls.

Ending the global scourge of violence against women and girls will require comprehensive support services for survivors, accountability for perpetrators, redoubled efforts to prevent abuse, and the common recognition that women and girls have inalienable human rights and fundamental freedoms. These efforts should be directed to ending all forms of gender-based violence, including intimate partner violence, which is the most prevalent form of violence against women and girls globally. One in three women worldwide will experience gender-based violence in her lifetime, and in some countries, 70 percent of females are affected. Members of particularly vulnerable populations, including women and girls with disabilities, lesbians and transgender persons, and indigenous women and girls are at increased risk.

Intimate partner violence and this resolution’s particular focus, sexual violence, must be prevented and addressed through a holistic approach. The World Health Organization defines intimate partner violence to include “acts of physical aggression, psychological abuse, forced intercourse and other forms of sexual coercion, and various controlling behaviours such as isolating a person from family and friends or restricting access to information and assistance.” Violence perpetuates a cycle of violence; evidence shows that children who witness or experience violence are more likely to perpetrate violence and/or experience violence as adults. Emerging evidence shows that in post-conflict situations, intimate partner or domestic violence can increase due to a general breakdown in rule of law or societal norms.

Violence seriously jeopardizes the physical and mental health of women and girls, including, in many instances, their sexual and reproductive health. Respecting and promoting the human rights of women—including the right to have control over and decide freely and responsibly on matters related to their sexuality free from coercion, discrimination, and violence—must be at the heart of our efforts to end violence against women and girls or we will never succeed.

To that end, we are pleased that this resolution recognizes the strong connection between sexual and reproductive health and reproductive rights and efforts to address and end violence against women, including rape. Reproductive rights, originally defined in the International Conference on Population and Development’s Program of Action adopted in 1994 and elaborated and reaffirmed in numerous intergovernmental documents since then, provide the foundation for our global effort. Reproductive rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so. The implementation of these instruments is contributing significantly to progress on preventing, mitigating, and ultimately eliminating violence against women and girls.

For women, the risk of pregnancy is also an important possible outcome of rape. We are pleased to note that the Commission on the Status of Women and CPD recognized the significance for survivors of access to emergency contraception, safe abortion, and post-exposure prophylaxis for HIV and other sexually transmitted infections. This Council should do the same.

The United States remains deeply concerned by incidents of rape and other forms of sexual violence in armed conflict, as well as in other situations of violence or instability. We must ensure that those who perpetrate these crimes are held accountable. In that regard, we strongly support the resolution's call for States that contribute to UN operations to take all appropriate measures to address and prevent rape and other forms of sexual violence, including by investigating and, as appropriate, prosecuting allegations of misconduct. We also underscore the important role that trained experts play in investigating allegations of mass rapes or systematic sexual violence. In this regard, we welcome the efforts of the Office of the High Commissioner for Human Rights, UN Women, and others in expanding the availability of gender, linguistic, and regional experts for deployment for these important investigations.

In conclusion, the United States is pleased to renew our commitment to supporting the Council as it redoubles its efforts to eliminate all forms of violence against women and girls.

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**c. *Commission on the Status of Women***

The Commission on the Status of Women held its 57<sup>th</sup> session in 2013, focusing on violence against women and girls. Ambassador Susan Rice, U.S. Permanent Representative to the UN,<sup>\*</sup> welcomed the adoption of the agreed conclusions at the 57<sup>th</sup> session on March 17, 2013. Ambassador Rice's statement appears below and is available at <http://usun.state.gov/briefing/statements/206341.htm>.

\* \* \* \*

I enthusiastically welcome the adoption of strong Agreed Conclusions at the 57th Session of the Commission on the Status of Women. This year's Commission focused on the global scourge of violence against women and girls, and the Agreed Conclusions represent vital international recognition that women and girls everywhere have a right to live free from violence, exploitation, and abuse.

Importantly, the Conclusions call for robust measures to prevent violence against women and girls, accountability for gender-related violence and crimes, and comprehensive efforts to support women and girls at risk. They also acknowledge the central importance of sexual and reproductive health and reproductive rights and reinforce that States have a duty—regardless of their political, economic, and cultural systems—to promote and protect all human rights and fundamental freedoms of women and girls.

While we are very pleased with the outcome, the United States remains disappointed that the Conclusions did not explicitly recognize that women and girls should not suffer violence or discrimination based on their actual or perceived sexual orientation or gender identity. Basic rights must apply to everyone, and the United States will continue to fight relentlessly to ensure equality for all people regardless of who they are or whom they love.

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<sup>\*</sup> Editor's Note: Susan Rice left her post as U.S. Ambassador to the UN on June 25, 2013 to become National Security Adviser to President Obama. On August 5, 2013 Samantha Power was sworn in as U.S. Ambassador to the UN.

The Agreed Conclusions mark a milestone in our fight for the safety and dignity of women and girls everywhere. The United States celebrates this progress as we pledge to redouble our efforts to protect and support the fundamental rights of all women and girls, both at home and around the world.

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**d. U.S. actions**

On January 30, 2013, President Obama issued a memorandum on “Coordination of Policies and Programs To Promote Gender Equality and Empower Women and Girls Globally.” 78 Fed. Reg. 7989 (Feb. 4, 2013); Daily Comp. Pres. Docs. 2013 DCPD No. 00057 (Jan 30, 2013). Section 1 of the memorandum establishes the position of Ambassador at Large for Global Women’s Issues within the State Department. The presidential memorandum follows.

\* \* \* \*

Promoting gender equality and advancing the status of all women and girls around the world remains one of the greatest unmet challenges of our time, and one that is vital to achieving our overall foreign policy objectives. Ensuring that women and girls, including those most marginalized, are able to participate fully in public life, are free from violence, and have equal access to education, economic opportunity, and health care increases broader economic prosperity, as well as political stability and security.

During my Administration, the United States has made promoting gender equality and advancing the status of women and girls a central element of our foreign policy, including by leading through example at home. Executive Order 13506 of March 11, 2009, established the White House Council on Women and Girls to coordinate Federal policy on issues, both domestic and international, that particularly impact the lives of women and girls. This commitment to promoting gender equality is also reflected in the National Security Strategy of the United States, the Presidential Policy Directive on Global Development, and the 2010 U.S. Quadrennial Diplomacy and Development Review.

To elevate and integrate this strategic focus on the promotion of gender equality and the advancement of women and girls around the world, executive departments and agencies (agencies) have issued policy and operational guidance. For example, in March 2012, the Secretary of State issued *Policy Guidance on Promoting Gender Equality to Achieve our National Security and Foreign Policy Objectives*, and the United States Agency for International Development (USAID) Administrator released *Gender Equality and Female Empowerment Policy*. The Millennium Challenge Corporation issued *Gender Integration Guidelines* in March 2011 to ensure its existing gender policy is fully realized. My Administration has also developed a National Action Plan on Women, Peace, and Security, created pursuant to Executive Order 13595 of December 19, 2011, to strengthen conflict resolution and peace processes through the inclusion of women, and a Strategy to Prevent and Respond to Gender-based Violence Globally, implemented pursuant to Executive Order 13623 of August 10, 2012, to combat gender-based



violence around the world. Improving interagency coordination and information sharing, and strengthening agency capacity and accountability will help ensure the effective implementation of these and other Government efforts to promote gender equality and advance the status of women and girls globally.

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further strengthen the capacity of the Federal Government to ensure that U.S. diplomacy and foreign assistance promote gender equality and advance the status of women and girls worldwide, I hereby direct the following:

*Section 1. Strengthening Capacity and Coordination to Promote Gender Equality and Advance the Status of Women and Girls Internationally.*

(a) Enhancing U.S. global leadership on gender equality requires dedicated resources, personnel with appropriate expertise in advancing the status of women and girls worldwide, and commitment from senior leadership, as exemplified by the critical and historic role played by the Office of Global Women's Issues at the Department of State. To assure maximum coordination of efforts to promote gender equality and advance the status of women and girls, the Secretary of State (Secretary) shall designate a coordinator (Coordinator), who will normally also be appointed by the President as an Ambassador at Large (Ambassador at Large) subject to the advice and consent of the Senate. The Ambassador at Large, who shall report directly to the Secretary of State, shall lead the Office of Global Women's Issues at the Department of State and provide advice and assistance on issues related to promoting gender equality and advancing the status of women and girls internationally.

(b) The Ambassador at Large shall, to the extent the Secretary may direct and consistent with applicable law, provide guidance and coordination with respect to global policies and programs for women and girls, and shall lead efforts to promote an international focus on gender equality more broadly, including through diplomatic initiatives with other countries and partnerships and enhanced coordination with international and nongovernmental organizations and the private sector. To this end, the Ambassador at Large shall also, to the extent the Secretary may direct, assist in:

(i) implementing existing and developing new policies, strategies, and action plans for the promotion of gender equality and advancement of the status of women and girls internationally, and coordinating such actions with USAID and other agencies carrying out related international activities, as appropriate; and

(ii) coordinating such initiatives with other countries and international organizations, as well as with nongovernmental organizations.

(c) Recognizing the vital link between diplomacy and development, and the importance of gender equality as both a goal in itself and as a vital means to achieving the broader aims of U.S. development assistance, the Senior Coordinator for Gender Equality and Women's Empowerment at USAID shall provide guidance to the USAID Administrator in identifying, developing, and advancing key priorities for U.S. development assistance, coordinating, as appropriate, with other agencies.

(d) The Assistant to the President for National Security Affairs (or designee), in close collaboration with the Chair of the White House Council on Women and Girls (or designee) and the Ambassador at Large (or designee), shall chair an interagency working group to develop and coordinate Government-wide implementation of policies to promote gender equality and advance the status of women and girls internationally. The Working Group shall consist of senior representatives from the Departments of State, the Treasury, Defense, Justice, Agriculture,



Commerce, Labor, Health and Human Services, Education, and Homeland Security; the Intelligence Community, as determined by the Director of National Intelligence; the United States Agency for International Development; the Millennium Challenge Corporation; the Peace Corps; the U.S. Mission to the United Nations; the Office of the United States Trade Representative; the Office of Management and Budget; the Office of the Vice President; the National Economic Council; and such other agencies and offices as the President may designate.

*Sec. 2. General Provisions.*

(a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law or Executive Order to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Upon designation as such by the Secretary, the Coordinator shall exercise the functions of the Ambassador at Large set forth in this memorandum.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) The Secretary of State is hereby authorized and directed to publish this memorandum in the Federal Register.

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### 3. Sexual Orientation

In 2013, the United States joined in joint statements on discrimination based on sexual orientation and gender identity in both the HRC and the UN, which are discussed in this section.

#### a. Human Rights Council

At the 23<sup>rd</sup> session of the HRC, the United States and 32 other countries supported a statement on human rights, sexual orientation, and gender identity. The statement, available at <http://geneva.usmission.gov/2013/06/10/joint-statement-by-33-nations-on-human-rights-sexual-orientation-and-gender-identity>, appears below.

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On this 20th anniversary of the Vienna Declaration and Programme of Action, we recall that while ‘various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.’ The VDPA declares that ‘human rights and fundamental freedoms are the birthright of all human beings.’

We recall Human Rights Council resolution 17/19, the report of the High Commissioner and the panel discussion last year. This has provided a solid foundation on which to build a framework for addressing discrimination and violence based on sexual orientation and gender identity.

Mr. President,

The International Conference on Human Rights, Sexual Orientation and Gender Identity held in Oslo, 15-16 April of this year, co-chaired by South-Africa and Norway, gathered more than 200 participants from 84 countries of all regions of the world.

The Conference was the result of a cross regional process, initiated by South Africa and supported by Norway, Brazil and other friends of the resolution 17/19.

In all countries of the world, individuals are subjected to discrimination and violence based on sexual orientation and gender identity. We would like to thank partner countries for the good collaboration in conducting the consultative regional seminars in Kathmandu, Paris and Brasilia early this year leading up to the concluding international conference in Oslo in April. We would also like to thank civil society for the invaluable contributions to this process. We also extend a special recognition to ARC and ILGA for organizing the side event here in Geneva on 5 June (cosponsored by Brazil, France, Norway, Poland and South-Africa), an event which gave an overview of the process undertaken on the basis of the plan presented by South Africa to the Group of Friends in 2012.

In this regard, we draw attention to the report distributed on 5 June, entitled SOGI Conference Summary and Toolkit. \* This contains the Co-Chair's Summary and Conclusions; Report from the Oslo Conference (15-16 April); Report from Paris (26 March); Report from Kathmandu (22-23 March); Report from Brasilia (4-5 April); input from Africa; statements by Secretary General Ban Ki-Moon, High Commissioner Pillay, ASG Simonovic; as well as key reference documents in the UN context (resolution 17/19 and the High Commissioner's report on the issue).

Mr. President,

In Oslo, the Co-Chairs together with the regional organizers drew up and issued a set of agreed conclusions. These are contained in the Co-Chairs' Summary and Conclusions. Of particular relevance for the work on the global level, we reaffirmed the responsibility of the Human Rights Council to address human rights violations against all persons, including on the basis of sexual orientation and gender identity. We recognized the ongoing work of treaty bodies, special procedures and under the Universal Periodic Review, and encouraged continued and strengthened efforts in this area. Together we found that the identified gaps and challenges are pervasive in all regions and require systemic solutions.

Against this background, we concluded that there is a need to integrate the issues systematically in the work of the United Nations, through the establishment of a relevant mechanism, at the appropriate time. The Co-Chairs' Summary and Conclusions specifies the objectives of such a mechanism, in essence the need to study and document the situation; recommend concrete steps and encourage good practices; work collaboratively with other UN bodies; present reports to the Human Rights Council and engage its members in inter-active dialogue; and offer technical assistance to states.

Mr. President,

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\* Editor's note: The Conference Summary and Toolkit are available at <http://geneva.usmission.gov/wp-content/uploads/2013/06/SOGI-conference-summary-and-toolkit.pdf>.

Let me conclude by stating that the countries behind this statement remain committed to working with all partners in keeping the issue of human rights, sexual orientation and gender identity on the agenda of the United Nations through an appropriate decision of the Human Rights Council, in accordance with the spirit of resolution 17/19 and drawing upon the outcome of the process as outlined in the report just described.

Moving forward we support further efforts and dialogue among all parties, on the national, regional and global levels. We believe that the United Nations and the Human Rights Council provide a useful framework for such a dialogue on the global level.

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**b. UN**

On September 26, 2013, following a meeting of the members of the LGBT Core Group at the UN (which includes the United States), the members issued a declaration on ending violence and discrimination against individuals based on their sexual orientation and gender identity. The declaration appears below and is available at [www.state.gov/r/pa/prs/ps/2013/09/214803.htm](http://www.state.gov/r/pa/prs/ps/2013/09/214803.htm).

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1. We, ministers of Argentina, Brazil, Croatia, El Salvador, France, Israel, Japan, The Netherlands, New Zealand, Norway and United States, and the High Representative of the European Union for Foreign Affairs and Security Policy—members of the LGBT Core Group at the United Nations—hereby declare our strong and determined commitment to eliminating violence and discrimination against individuals based on their sexual orientation and gender identity.

2. In so doing, we reaffirm our conviction that human rights are the birthright of every human being. Those who are lesbian, gay, bisexual and transgender (LGBT) must enjoy the same human rights as everyone else.

3. We welcome the many positive steps taken in recent decades to protect LGBT individuals from human rights violations and abuses. Since 1990, some 40 countries have abolished discriminatory criminal sanctions used to punish individuals for consensual, adult same-sex conduct. In many countries, hate crime laws and other measures have been introduced to combat homophobic violence, and anti-discrimination laws have been strengthened to provide effective legal protection against discrimination on the basis of sexual orientation and gender identity in the workplace and other spheres, both public and private.

4. We also recognize that countering discrimination involves challenging popular prejudices, and we welcome efforts by Governments, national human rights institutions and civil society to counter homophobic and transphobic attitudes in society at large, including through concerted public education campaigns.

5. We assert our support for, and pay tribute to, LGBT human rights defenders and others advocating for the human rights of LGBT persons. Their work, often carried out at considerable

personal risk, plays a critical role in documenting human rights violations, providing support to victims, and sensitizing Governments and public opinion.

6. We commend the adoption by the United Nations Human Rights Council of resolution 17/19 on human rights, sexual orientation and gender identity, and we welcome the efforts of the Secretary-General and the High Commissioner for Human Rights to raise global awareness of human rights challenges facing LGBT individuals, and to mobilize support for measures to counter violence and discrimination based on sexual orientation and gender identity.

7. Nevertheless, we remain gravely concerned that LGBT persons in all regions of the world continue to be victims of serious and widespread human rights violations and abuses.

8. A landmark 2011 study by the High Commissioner for Human Rights, which drew on almost two decades worth of work by United Nations human rights mechanisms, found a deeply disturbing pattern of violence and discriminatory laws and practices affecting individuals on the basis of their sexual orientation and gender identity.

9. It is a tragedy that, in this second decade of the 21st century, consensual, adult, same-sex relations remain criminalized in far too many countries—exposing millions of people to the risk of arrest and imprisonment and, in some countries, the death penalty. These laws are inconsistent with States' human rights obligations and commitments, including with respect to privacy and freedom from discrimination. In addition, they may lead to violations of the prohibitions against arbitrary arrest or detention and torture, and in some cases the right to life.

10. In all parts of the world—including in our own—LGBT individuals are subjected to intimidation, physical assault, and sexual violence, and even murder. Discriminatory treatment is also widely reported, inhibiting the enjoyment of a range of human rights—including the rights to freedom of expression, association and peaceful assembly, and work, education and enjoyment of the highest attainable standard of health.

11. We are fully committed to tackling these violations and abuses—both at the domestic level, including through continued attention to the impact of current policies, and at the global level, including through concerted action at the United Nations.

12. We recognize the importance of continued dialogue between and within countries concerning how best to protect the human rights of LGBT persons, taking into account regional initiatives. In this context, we welcome the outcome of a series of recent regional consultations on the topic of human rights, sexual orientation and gender identity that took place in March and April 2013, and encourage the holding of further such meetings at regional and national levels.

13. Key to protecting the human rights of LGBT individuals is the full and effective implementation of applicable international human rights law. Existing international human rights treaties provide legally binding guarantees of human rights for all—LGBT people included. But for these guarantees to have meaning they must be respected by Governments, with whom legal responsibility for the protection of human rights lies.

14. Cognizant of the urgent need to take action, we therefore call on all United Nations Member States to repeal discriminatory laws, improve responses to hate-motivated violence, and ensure adequate and appropriate legal protection from discrimination on the basis of sexual orientation and gender identity.

15. We strongly encourage the Office of the High Commissioner for Human Rights to continue its efforts to increase understanding of the human rights challenges facing LGBT people, advocate for legal and policy measures to meet these challenges, and assist the United Nations human rights mechanisms in this regard.

16. We agree with the United Nations Secretary-General's assessment that combating violence and discrimination based on sexual orientation and gender identity constitutes "one of the great, neglected human rights challenges of our time". We hereby commit ourselves to working together with other States and civil society to make the world safer, freer and fairer for LGBT people everywhere.

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On December 18, 2013, the UN General Assembly adopted a resolution on Preparations for and observance of the twentieth anniversary of the International Year of the Family. U.N. Doc. A/RES/68/136. The United States joined consensus on the resolution, providing a statement underscoring the need to value all types of families, including those headed by same-sex couples. The U.S. explanation of position on the resolution follows.

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The United States is pleased to join consensus on the resolution before us today to further discussions at the United Nations about the human rights enjoyed by all individuals within a family, including through marking the twentieth anniversary of the International Year of the Family. The family clearly plays an important role within society, and we have come to observe that the nature and role of the family adapt over time while the family retains its fundamental value.

We agree with the sentiment in the resolution that recognizes how important families are to the development of children. "An atmosphere of happiness, love, and understanding," as the resolution notes, is central to our understanding of the family in today's world. The United States thus looks forward to discussions at the United Nations that consider all types of loving families that exist today, be those families headed by one mother and father, a single parent, a same-sex couple, grandparents, or the myriad other family structures which provide essential support for raising children. It is essential that UN recognize these various forms of the family as we further address human rights and the family throughout various UN fora.

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On November 6, 2013, U.S. Representative to ECOSOC Elizabeth Cousins remarked on the resolution the U.S. co-sponsored entitled "Building a peaceful and better world through sport and the Olympic ideal." Ambassador Cousins' remarks are excerpted below and available in full at

<http://usun.state.gov/briefing/statements/217266.htm>.

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... We especially want to draw attention to the language in the resolution “calling upon host countries to promote social inclusion without discrimination of any kind.” This is the first time that language of this kind appears in a resolution on the Olympic Truce, and it sends a powerful message highlighting the role that sport plays for all people. This phrase emphasizes the importance of inclusion and participation of all people in sporting activity, regardless of identity, including persons of different sexual orientations and gender identities.

In its recitation of the fundamental principles of Olympism, the Olympic Charter states “Every individual must have the possibility of practicing sport, without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play.”

Many of the most inspirational moments in the Olympics have come through the ever-broadening participation of persons of various backgrounds in the Games, including: Native-American Jim Thorpe’s decathlon and pentathlon gold medals in the 1912 Olympics; the four gold medals African-American Jesse Owens won at the 1936 Berlin Olympics; the three 1960 gold medals of Wilma Rudolph, an African-American woman stricken with polio at age four whose childhood doctors feared she may never walk without wearing a leg brace; and the recent inspirational performance of South African Caster Semenya, who faced unprecedented challenges and unfair gender testing in 2009 only to return proudly and medal in the London Games, where her teammates selected her for the honor of serving as her nation’s flag bearer during the opening ceremony.

Part of what makes sport so important is that it promotes inclusion, bringing together people of different ages, races, religions, social status, disabilities, sexual orientation, and gender identity. Sport embraces all segments of society and is instrumental in empowering people of diverse backgrounds, while fostering tolerance and respect for all people, no matter what they look like, where they come from, where they worship, or whom they love.

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#### **4. Age**

##### ***a. U.S. view on possible draft convention***

The United States has participated in fora to address the rights of older persons, including the Open-Ended Working Group on Ageing (discussed in Section B.4.b., below). The United States has advocated consistently for better implementation of existing instruments rather than the development of a new legal instrument. In response to a request from the UN Department of Economic and Social Affairs in March 2013, the United States submitted the following response.

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In its March 28, 2013 letter, the Department of Economic and Social Affairs invited member states to submit elements for an international legal instrument to promote and protect the rights of older persons by May 1. UNGA Resolution 67/139—entitled “Towards a comprehensive and integral international legal instrument to promote and protect the rights and dignity of older

persons” and adopted on December 20, 2012—gave the Open-Ended Working Group on Ageing a mandate to consider proposals for a new international legal instrument on the rights of older persons.

The United States thinks a new legal instrument on the rights of older persons is not needed. Many other countries share this view. The positions expressed during the three Open-Ended Working Group sessions held so far clearly demonstrate that UN member states disagree on whether a new instrument is the best way to protect older persons and advance their well-being. The large number of abstentions during the Third Committee and UNGA votes on Resolution 67/139 underscores that most nations are not ready to endorse the resolution’s main objective of negotiating a new instrument.

Older persons face critical challenges involving violence and abuse, economic security, and health and nutrition needs. Older persons, however, already have the same human rights as everyone else under existing human rights law. A new international instrument such as a convention would not necessarily provide additional protections, and even after a convention came into force, it would not be binding upon member states that do not ratify it.

There are actions that can be taken in the short term that should be considered before prioritizing a treaty negotiation process. Provisions in existing treaties applicable to older persons should be fully implemented. States Parties’ reports to existing treaty bodies could include specific information on implementation of their provisions with regard to older persons. Existing Special Rapporteurs could examine ageing issues within their mandates. And member states and non-governmental organizations can continue to discuss and disseminate best practices concerning the rights of older persons.

Moreover, negotiating a legal instrument would require new human and monetary resources. Member states would need to provide expert teams for a labor-intensive and expensive multi-year negotiating process, in order to arrive at a document that would enjoy broad support. Considering the budget constraints that the UN, member states, and civil society organizations currently face, embarking upon this course of action would inevitably divert resources from addressing the more immediate and concrete needs of older persons. Rather than financing a negotiating process, scarce resources should be devoted to implementing the Madrid Plan of Action on Ageing, which offers a balanced, pragmatic approach to improving the situations and circumstances of older persons. The Open-Ended Working Group on Ageing provides a forum for this approach.

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**b. UN working group**

On August 12, 2013, Laurie Phipps, U.S. Adviser for Economic and Social Affairs, addressed a session of the UN’s Open-Ended Working Group on Aging. Her statement is excerpted below and available at <http://usun.state.gov/briefing/statements/213121.htm>

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Over the past three Open-Ended Working Group sessions, participants have shared best practices and discussed possible actions that the UN, member states, and non-governmental organizations

can take to protect the rights of older persons. Yet more needs to be done. We would like to propose some concrete action for the future work of the Working Group, consistent with its role in mainstreaming ageing issues throughout the UN's policies and programs.

At the spring 2013 Commission on Social Development session, the ten-year review of the Madrid International Plan of Action on Ageing was completed and a report was presented to the Commission. The Madrid Plan encapsulates a balanced and pragmatic approach to the various difficulties facing older persons, and provides a comprehensive agenda for dealing with ageing issues. It addresses how to include older persons in the benefits of development; advance health and well-being throughout the life cycle; and build enabling and supportive environments for older persons. And it suggests how governments, NGOs, and other actors can reorient how their societies perceive, interact with, and care for their older citizens. For these reasons, we urge the Open-Ended Working Group on Ageing to continue facilitating implementation of the Madrid Plan. The U.S. delegation looks forward to hearing this afternoon's interactive panel discussion on the Madrid Plan.

Older persons often face concerns that need to be addressed immediately, including food, health care, economic security, protection from violence and neglect, and services to allow for independent living. Because of the time-sensitive nature of these needs, the UN system should direct its efforts to suggesting practical measures, consistent with the Madrid Plan of Action, which member states, the UN, and civil society can take to improve the situation of older persons. Reference to these actions should be included in relevant resolutions, including General Assembly and Second and Third Committee resolutions. Next, reports and side events can focus on topics of particular importance, with a view to raising awareness and arriving at courses of actions. Lastly, language on older persons can be included in the Strategic Plans of the UN Funds and Programmes and other relevant UN organizations, including ILO and UN Women. Doing so would inform the Funds and Programmes in their efforts to develop policies and programs and allow for monitoring and evaluation of progress made. The Open-Ended Working Group should encourage and facilitate these efforts of the UN system, which a range of actors would undertake.

Mr. Chair, elder abuse is a topic of particular importance to the United States. At this year's World Elder Abuse Awareness Day, we and our UN partners, the Canadian government, and non-governmental organizations hosted panel discussions on concrete measures to combat elder abuse. At the 2012 World Elder Abuse Awareness Day, the White House brought national attention to the issue by holding an event that brought together a broad range of actors within the U.S. government. Last April the National Academy of Sciences Institute on Medicine held a two-day public workshop on global elder abuse and its prevention. The workshop explored the negative impacts of elder abuse on individuals, families, communities, and societies.

In the United States, the Elder Justice Act of 2009, as part of the Affordable Care Act, established the Elder Justice Coordinating Council to coordinate across the U.S. government activities related to elder abuse, neglect, and exploitation. The Council is a permanent body, with the goal of better coordinating the Federal response to elder abuse. And the United States has long been engaged in efforts to protect older individuals from elder abuse, such as financial exploitation; physical, psychological, and sexual abuse; and neglect. Through the Older Americans Act, the United States aims to provide services to older persons and protect those who may not be able to protect themselves.

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Ms. Phipps also delivered a closing statement to the working group on August 15, 2013, excerpted below and available at <http://usun.state.gov/briefing/statements/213180.htm>

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We have had three days of interesting and thoughtful discussion on the existing international framework on the human rights of older persons. It is incontrovertible that, as the Universal Declaration of Human Rights declares in the first Article, “all human beings are born free and equal in dignity and rights.” This is true throughout life—every older person holds the same human rights as everyone else. Nevertheless, the sad fact remains that not all older persons are treated with dignity and respect for their rights; their needs and interests are too often ignored by their societies, their communities, their families and sometimes, their governments.

The question remains: what can the international community, and more specifically the member states of the United Nations, do to help improve the situations of older persons?

Some have said, during the last few days, that current international human rights law is insufficient for providing protection for older persons. They argue that only a specific instrument that focuses on older persons and their distinctive needs will serve to protect their rights. However, most speakers over the past days have acknowledged that universal human rights apply to older persons, but note that they are not systematically or adequately adhered to. The problem, then, is one of implementation. Ways to promote and protect the rights of older persons, and create accountability for violations and abuses of those rights, have been discussed and should be the topic for further exploration.

It is clear that older persons in many countries face neglect, challenges, and even abuse. What is not yet clear, however, is the best way to address the difficulties and inequalities older persons face. Whether a new convention on the rights of older persons would be the most effective way to close the implementation gap is still in question. We will continue to examine the analyses of the Open-Ended Working Group, the Office of the High Commissioner for Human Rights, the reports of the Secretary-General to the Commission on Social Development and the Third Committee, and input from civil society.

In the meantime, governments need to implement their existing human rights obligations. They also need to take into consideration the Madrid International Plan of Action and other guidelines and implement policies to the benefit of their older persons.

Turning briefly to the OAS draft Convention that has been mentioned repeatedly in this forum, we would like to point out that the United States appended a footnote to the OAS resolution concerning the negotiation of the draft Convention, noting that the U.S. does not endorse the text of the draft Inter-American Convention.

Mr. Chairman,

The contributions older persons can and do make to their communities are a benefit to us all. This should be recognized by their families and communities, but sometimes is not. The process of ageing is often difficult and lonely. The rights of older persons need to be protected and promoted. Much more can be done, and should be done now. While we deliberate over the best way forward, the lack of a Convention should not be an excuse for the lack of protection for the rights and interests of older persons.

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**c. Human Rights Council**

On September 26, 2013, at the 24<sup>th</sup> session of the HRC, the U.S. delegation provided the following explanation of the U.S. position on a resolution on the human rights of older persons. The statement is available at <http://geneva.usmission.gov/2013/09/27/eop-on-the-human-rights-of-older-persons>.

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All delegations here share the objective of improving the well-being of older persons. As reflected in discussions in the Open-Ended Working Group on Ageing over the past three years, where we differ is in our views on how best to achieve that goal.

Ageing issues are considered throughout the UN, not only in the General Assembly and Commission on Social Development, but in other mechanisms as well. We stress that the new HRC Independent Expert on the human rights of older persons must focus his or her activities on working with states to enable them to implement existing laws and policies and to protect the rights of older persons. The Independent Expert must not duplicate the activities of the Open-Ended Working Group on Ageing, a mechanism that has overlapping elements in its mandate. We believe the best way to avoid duplication is for the Open-Ended Working Group to suspend its operations during the Independent Expert's mandate.

We also note that member states have limited ability to provide additional resources to enable OHCHR to perform the substantial new work mandated by the Human Rights Council. This resolution will trigger costs of over half a million dollars each year, a significant sum. Avoiding duplication among the various entities addressing ageing concerns is essential to reduce costs and ensure efficiency.

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**d. UN General Assembly Third Committee**

On December 18, 2013, the UN General Assembly adopted without a vote a resolution on "Follow-up to the Second World Assembly on Ageing." U.N. Doc. A/RES/68/134. The United States joined consensus in adopting the resolution when it was discussed in the Third Committee in November, providing the following statement explaining its support for the resolution's emphasis on coordinating efforts to address the human rights of older persons:

While we are joining consensus, we would like to reiterate our view that avoiding duplication among the various UN entities and mandate holders addressing ageing is essential to reduce costs and ensure efficiency. For that reason, we are pleased this resolution stresses the importance of coordination

between the Independent Expert on the human rights of older persons and the Open-Ended Working Group to avoid unnecessary duplication with each other's mandates, among others. We continue to believe the best way to avoid duplication would have been for the General Assembly to suspend the operations of the Open-Ended Working Group during the Independent Expert's mandate. We stress that the new HRC Independent Expert on the human rights of older persons must focus his or her activities on working with states to enable them to implement existing laws and policies and to protect the rights of older persons.

## 5. Persons with Disabilities

On November 21, 2013, Secretary Kerry testified before the Senate Foreign Relations Committee again urging its advice and consent to ratification of the Convention on the Rights of Persons with Disabilities. In 2012, the Senate vote on the resolution for advice and consent to ratification of the Convention was 61 to 38, shy of the required two-thirds majority. See *Digest 2012* at 168-81. Senator Kerry's November 21 statement to the Foreign Relations Committee is excerpted below and available in full at [www.state.gov/secretary/remarks/2013/11/217894.htm](http://www.state.gov/secretary/remarks/2013/11/217894.htm).

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...I'd just start off by saying we are 100 percent prepared, as we have been, to work through what are known as RUDs—the Reservations, Understandings, and Declarations—in order to pass this treaty. That's our goal. And as—we begin with a place that makes it clear that we don't believe this has impact, but we're happy to restate and reassert the law in ways that makes senators feel comfortable, obviously. We want to pass this.

It's not lost on any of us that only 11 months ago the Senate fell just five votes short of approving this treaty. So more than 60 senators have already resolved in their minds many of the questions that are re-raised again and again. And we can go into them today, as I'm sure we will.

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In the after-action conversations that I had with many senators, both Republicans and Democrats alike, including a number who had voted against the treaty—yourself, Senator Corker, and others—I even heard some real regret about what had transpired and the unintended message that the outcome sent to Americans with disabilities as well as to other people around the world. And I heard from many not just a willingness but a hope that they would have the chance in a new congress to take up the treaty again and to demonstrate the important truth that senators from both sides of the aisle care deeply about the rights of people with disabilities.

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Now, I still believe what I believed the first time we tried to do this when I was Chair, that the ratification of the Disabilities Treaty will advance core American values, it will expand opportunities for our citizens and our businesses, and it will strengthen American leadership. And I am still convinced that we give up nothing but we get everything in return. ... Our ratification does not require a single change to American law, and it isn't going to add a penny to our budget. But it will provide the leverage, the hook, that we need in order to push other countries to pass laws or improve their laws or raise their standards for the protection of people with disabilities up to the standard that we have already adopted in the United States of America, up to the standard that prompted President George H.W. Bush and Republican Leader Dole to pass the Americans with Disabilities Act, and indeed to negotiate the treaty.

Now, I'm especially engaged now, obviously, as Secretary of State, because having traveled to a great number of countries these last nine months since you confirmed me, I have seen firsthand the need for this treaty in ways that I never had before. It's not an abstract concept. This is not just a nice thing to do. It's not something that's sort of for the few. It really raises standards for the many. And there are countries where children with disabilities are warehoused from birth, denied even a birth certificate, not a real person, and treated as second-class citizens every single days of their life. The United States has the ability to impact that by the passage of this treaty. One hundred and thirty-eight countries have already signed up to this. In too many countries, what we did here at home with the Americans with Disabilities Act hasn't even been remotely realized overseas. And in too many places, what we take for granted here hasn't been granted at all.

Now, I'll never forget my visit recently to a sport rehabilitation center for disabled veterans in Bogota a little while ago, a center that we support with funding from USAID. And I met police officers who were injured by grenades, soldiers wounded by IEDs, volunteers caught in the tragic shootouts that take place over their efforts to help us together to enforce global international narcotics objectives. These brave men and women have risked life and limb and they've lost friends in battle, and yet there's a whole world that they are unable to access today because of their disabilities which they received as they undertook duties shared by our hopes and aspirations with respect to the enforcement of law.

Moments like this really clarify for me the work that we have to do to export our gold standard. The Americans with Disabilities Act is the global gold standard. We should be extraordinarily proud of it. We are. But I would hate to see us squander our credibility on this issue around the world because we're unwilling to embrace what we actually began—this initiative. When I tell other countries that they ought to do what we've done, I'm often reminded that we haven't done what we said we were going to do, we haven't joined the treaty ourselves. It's pretty hard to leverage people when you're on the outside.

So those 138 parties to the treaty, when they convene, we miss out on the opportunity to use our expertise to leverage what we've done in America and put it on the table. We lose out on that. We're not at the table. We can't share our experience and use our experience to broaden theirs. When other countries come together to discuss issues like education, accessibility, and employment standards for people with disabilities, areas where the United States has developed the greatest expertise, we've been excluded because we're not a party to the treaty. And the bottom line is that when we're not there, other countries with a different and unfortunately often a lower standard, a lower threshold, wind up filling the void, and that's the best that people get.

I don't want to see us continue to take ourselves out of the game. No member of the Senate should want us to voluntarily take ourselves out of this. And remaining on the sidelines

jeopardizes our role in shaping the future of disability rights in other countries, and we need to help push the door open for other countries to benefit, not just from our example but from our guidance and our expertise, our experience.

Joining the treaty is the most powerful step that we can take to gain all of those upsides. And don't take my word for it. In a letter to this committee last month, former Secretary of State Colin Powell said it best. He wrote, "If the Senate does not approve this treaty, the United States will continue to be excluded from the most important global platform for the implementation of best practices in disability rights abroad."

So this is about something very real. Look at the numbers of people who were here today and the numbers of groups represented behind me here today. Every one of them represents thousands more people for whom this is very real. It's about things that you can see and you can touch and that make a difference to people's lives. I'm talking about sidewalks without curb cuts—try managing that; public buildings with no accessible bathrooms; restaurants, stores, hotels, and universities without ramps or elevator access; buses without lifts, train platforms with tactile strips that keep you from going over onto the tracks. We can't afford to ignore these barriers as problems that somehow affect other countries but don't affect us. They're present all over the world, including some of the top destinations for Americans traveling abroad for work or for study or for pleasure. And we're not using all of our power and influence to change things for the better if we don't join this treaty.

Now, I'd ask you just to think about what this treaty could mean. It means something for everybody with disabilities. But I do particularly want to ask you to think about what it means to our veterans with disabilities.

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Joining the Disabilities Treaty will also expand opportunities for American students with disabilities, who need to be able to study abroad to prepare themselves to compete in the global economy. ...

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I just ask you—very quickly, and then I'll wrap up—consider just a few concrete examples. We're talking about joining a treaty that will strengthen our hand as we push for fire alarms with flashing lights so people who are deaf or hard of hearing will know when there's emergency or when they need to evacuate. We're talking about joining a treaty that gives us leverage to push for other countries to have sidewalks with those curb cuts so people who use wheelchairs can safely cross the street, or the tactile strip at the train platform so people who are blind don't fall into danger. Our joining the treaty means that we will lead the way for other countries to raise their standards, and it means that we will lead the way for other countries to adopt our standards for all of these things—accessible bathrooms, tactile strips, fire alarms, flashing lights, all of the advancements that have made an enormous difference in the lives of Americans with disabilities.

Now, I will admit to you change is not going to just happen with the passage of the treaty. It's not going to happen overnight. When we passed the ADA, sidewalks with these curb cuts and bathrooms that were accessible didn't appear the next day, nor did all of the businesses that

make accessible products that serve people with disabilities. But the Disabilities Treaty, just like the ADA, is a process. And our joining the treaty, followed by a very important ingredient—we pass this treaty, I will send a message to every embassy in the world, and we will begin to engage a protocol that will have our people reaching out to every country and every government, and we will use our presence in this treaty to leverage these changes in these other countries, to encourage these changes, to use the voice that you will give us by actually joining it, a voice that we're not able to exercise today for our absence as a member.

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... I ask you to think about this—why is the American Chamber of Commerce supporting this? Why are so many businesses—Coca-Cola, which is, I think, in something like 198, 200 countries plus—why do they support it? Because this will open new markets. It'll level the playing field for our businesses, who already meet accessibility standards. As other countries rise to meet our standards and need our expertise, guess what? They're going to look to American companies that already produce these goods, and we'll be able to help them fill the needs, and this means jobs here at home. And that's why IBM and the Consumer Electronics Association and many other businesses support ratification.

So I think this is the single most important step that we can take today to expand opportunities abroad for the more than 50 million Americans with disabilities. This treaty is not about changing America. This treaty is about America changing the world.

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Ambassador Power also urged Senate ratification of the Convention in a statement delivered at the UN on December 3, 2013 in recognition of International Day of Persons with Disabilities. Her statement appears below and is available at <http://usun.state.gov/briefing/statements/218256.htm>.

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Twenty-three years ago, the United States became the first country in the world to adopt legislation banning discrimination against people with disabilities by passing the Americans with Disabilities Act (ADA). The ADA has since become the international gold standard for the fair and equal treatment of persons with disabilities. Today, on International Day of Persons with Disabilities, we commit to expanding the reach of disability rights by ratifying the Convention on the Rights of Persons with Disabilities (CRPD).

The CRPD matters. It matters because 50 million disabled Americans, including 5.5 million veterans, deserve the same rights abroad that they enjoy at home. It matters because blind veterans traveling abroad have had their guide sticks taken away in airports and amputees have been told to store their artificial limbs in overhead bins. It matters because of Dan Berschinski, an Afghanistan war veteran who lost both of his legs when he stepped on an IED, who explains that, "the advantages that we take for granted here at home that allow people like to me to live fulfilling, independent lives don't exist in much of the rest of the world." It matters because there are countries where disabled children are treated like second-class citizens from the moment they

are born. This disabilities treaty matters because it will have a real impact, not only for disabled Americans traveling and living overseas, but also for the millions of people across the world who aren't afforded the rights and protections we give our citizens.

By ratifying the disabilities treaty, we gain so much and lose nothing—it has no effect on U.S. law and doesn't add a penny to our budget. At the same time, it gives us leverage to push other nations to adopt standards equal to our own. This treaty is about taking what America has done so well for 23 years and getting other nations to follow our lead.

Last year, the U.S. Senate fell six votes short of ratifying this treaty. Six votes short of helping the millions of disabled Americans who receive second-rate rights when abroad. Six votes short of helping hundreds of millions of people across the world who have been written-off as imperfect and unequal. Today, on this International Day of Persons with Disabilities, let's resolve that we will ratify the CRPD in this Congress.

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## C. CHILDREN

### 1. Committee on the Rights of the Child

On January 16, 2013, the United States appeared before the Committee on the Rights of the Child for the Committee's review of the second periodic reports of the United States on its implementation of provisions in two Optional Protocols to the Convention on the Rights of the Child (on children in armed conflict and on the sale of children, child prostitution, and child pornography). The U.S. delegation included State Department Legal Adviser Harold Koh, as well as Luis CdeBaca, Ambassador-at-Large for the State Department's Office to Monitor and Combat Trafficking in Persons, and representatives from other U.S. government agencies. For background on the written submissions made to the Committee in December 2012, see *Digest 2012* at 183. The Committee's review of the United States presentation is available at

[www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12934&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12934&LangID=E).

Excerpted below are opening remarks by Harold Koh. Opening remarks by the members of the U.S. delegation are available at [www.state.gov/s/l/c8183.htm](http://www.state.gov/s/l/c8183.htm).

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I am Harold Hongju Koh, Legal Adviser of the U.S. Department of State. On behalf of the United States and outgoing Secretary of State Hillary Rodham Clinton, it is my honor and privilege to address the Committee on the Rights of the Child and to have this chance to present the first human rights periodic treaty reports of the Obama Administration.

As Ambassador King stated, the United States strives for a “more perfect union” to help promote a “more perfect world.” The United States is very proud of its human rights record but at the same time recognizes that we have more to do. I served as Assistant Secretary of State for Democracy, Human Rights and Labor when the United States participated in negotiations of the Optional Protocols over twelve years ago and was pleased to see the U.S. ratify them in 2002. As our detailed reports and presentation testify, the United States takes its human rights obligations, commitments, and dialogue with this Committee extremely seriously.

We have found the process of review and reflection with respect to the Optional Protocols very helpful as we consider how to redouble our efforts to protect children in the United States. We appreciate this opportunity for dialogue with your Committee to hear your views on how we are implementing our treaty obligations, as well as related policy recommendations for strengthening our protection of children.

The United States government has also valued the opportunity for an ongoing and robust dialogue with members of U.S. civil society. Before I became Legal Adviser four years ago, I worked as a human rights lawyer. I expect soon to return to civil society to continue that work. Our country believes that bringing civil society members into government positions helps to enrich the dynamic and dialogue between government and civil society.

For the United States, our obligations under these Optional Protocols are not just paper commitments. Both President Obama and Secretary Clinton have repeatedly stated their unequivocal dedication to the protection of innocent children in every setting. Secretary Clinton in particular has worked on these issues her entire career, which started with her work as a young lawyer at the Children’s Defense Fund in the United States.<sup>1</sup> The President and Secretary are represented here by the senior-level expert U.S. national delegation that appears before you today. Appearing with me are representatives of the four federal agencies that are most actively involved in implementing the U.S. laws and programs that give life and effect to our obligations under the Optional Protocols. Many other U.S. government agencies also actively participated in drafting our reports and responding to the Committee’s questions. Because the protection of children must be pursued at the state and local level, we are honored for the first time to bring to a U.S. Government human rights treaty presentation not one, but two Attorneys General from our fifty States to discuss their states’ efforts to combat child exploitation.

The United States is a government of laws and not individuals. So we take pride that our numerous protections for children are not just personal commitments, but ones enshrined in U.S. laws and policies. In the United States, an extensive network of Constitutional, federal, state, and local laws create a framework to protect children from the types of exploitation the Optional Protocols are designed to stop. Federal, state, and local programs and policies work together to create a nurturing environment where children can grow and develop.

The broad and comprehensive legal framework within the United States to implement the Optional Protocols described in the U.S. Initial Reports, presented five years ago, remains in place. These Second Periodic reports update our Initial Reports on major relevant developments, including new laws, judicial decisions, policies, and programs that expand protections in various areas.

Let me address “the elephant in the room:” that we have signed but are not yet party to the Convention on the Rights of the Child. In my personal capacity, I have been on the record for two decades as saying that I deeply regret our remaining outside this important treaty and that

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<sup>1</sup> See Hillary Rodham, *Children Under the Law*, 43 Harv. Educ. Rev. 487 (1973).



I hope my country will soon correct this omission. As we have noted in response to relevant UPR recommendations, this Administration supports the treaty's goals and intends to review how we can finally move it towards ratification.

At the same time, this Committee should not confuse our non-ratification with any lack of commitment to protecting children. While we have not yet ratified the CRC, few other countries have adopted as many laws, policies, and programs designed to protect the rights of the child. During the negotiation of the Optional Protocols in the late 1990s, some colleagues here in Geneva asked whether the United States should be able to ratify these Optional Protocols without having already ratified the Convention itself. We answered that some nations take an attitude of "ratification before compliance" with regard to international treaties. But the United States tends toward "compliance before ratification." By ratifying these specialized protocols first and engaging with this Committee with respect to these important issues over time, we have greatly increased our country's familiarity with this treaty and Committee and have brought closer the day when the United States could ratify the Convention itself.

Throughout today, you will hear from members of our team confirming our dedicated efforts related to both Protocols. This morning, my colleague, Ambassador Luis CdeBaca, Director of the Department of State's Office to Monitor and Combat Trafficking in Persons, will address U.S. efforts related to the Optional Protocol on the sale of children, child prostitution, and child pornography. Our approach to combating trafficking focuses on three P's, prosecution, protection, and prevention: punishing perpetrators, protecting victims, and preventing patterns of trafficking. There is a fourth P: partnership with state and local government and Indian tribes as well as civil society.

This afternoon, we will describe three themes that drive our work regarding the Optional Protocol on the involvement of children in armed conflict. First, the United States does not send children to fight. We are proud to have an all-volunteer force in the United States—no one of any age can be forcibly recruited into the U.S. Armed Forces—and no individual under the age of 18 can take a direct part in hostilities. Moreover, we respect our obligation not to recruit, in any event, those under the age of 17. We go to great lengths to ensure compliance with all of our obligations under the Protocol, and we exceed its requirements in many respects. Second, we are great supporters of the Protocols and this process of treaty review. We became party to these Protocols in 2002 with bipartisan support, and we have actively sought to participate in this process in a frequent and timely manner. Third, in our efforts abroad, we again take a three-part approach: prevention, mitigation, and rehabilitation. Around the world, the United States seeks to prevent and mitigate the harms resulting from the involvement of children in armed conflict and to support rehabilitation programs.

Let no one doubt: the United States abhors the unlawful use of children in armed conflict and supports the prosecution of ruthless war criminals, like Joseph Kony, who engage in such grotesque practices. Such brutal practices steal from children their youth and show them horrific violence that no child should experience. All too often, children who have been so tragically abused become adults who replicate these abuses without mercy.

We deeply appreciate the efforts this Committee has made to advance the international community's response in combating the exploitation of children, through trafficking and in armed conflict. On behalf of my country and my delegation, I look forward to our discussions with you. ...

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## 2. Rights of the Child

### a. *Human Rights Council*

On March 22, 2013, Ambassador Donahoe delivered the U.S. general comment on the resolution on “the rights of the child to the enjoyment of the highest attainable standard of health,” adopted by the HRC at its 22<sup>nd</sup> session. U.N. Doc. A/HRC/RES/22/32. The United States co-sponsored the resolution. Ambassador Donahoe’s statement follows, and is available at <http://geneva.usmission.gov/2013/03/22/u-s-pleased-to-co-sponsor-hrc-resolution-on-rights-of-the-child/>.

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The United States is extremely pleased to co-sponsor the “Rights of the Child resolution: the right of the child to the enjoyment of the highest attainable standard of health,” and thanks the co-sponsors for their collaboration during the negotiations. We are glad to see the resolution calls upon States to increase their efforts to address child and maternal mortality and apply a human rights-based approach in this regard, which we understand to mean an approach anchored in a system of rights and corresponding obligations established by international human rights law.

The United States remains deeply engaged in promoting healthy children both domestically and internationally. We look forward to continuing to work with other nations and international partners to ensure that all children live a healthy life, that their human rights are respected, and that they grow up in a world that they deserve. In September 2010, the UN launched the Secretary General’s Global Strategy for Women’s and Children’s Health in order to accelerate progress towards the advancement of the fourth and fifth Millennium Development Goals. Supporting the strategy, the United States, Ethiopia, and India, in collaboration with UNICEF, convened the Child Survival Call to Action last June that urged countries to embrace the goal of ultimately ending all preventable child deaths. To date, more than 160 governments have signed this pledge, and we are continuing to work with our partners to see the progress continue. In April 2012, the United States launched the “Every Child Deserves a 5th Birthday” awareness raising campaign. The United States also remains the largest government donor to UNICEF, focusing largely on vaccination campaigns and work on child survival. Over the past year, we have contributed more than \$345 million to UNICEF, including large contributions to emergency appeals and to support worldwide immunization efforts.

Today we co-sponsor this resolution with the express understanding that it does not imply that States must become parties to instruments to which they are not a party or implement obligations under human rights instruments to which they are not a party. Furthermore, to the extent that it is implied in this resolution, the United States does not recognize the creation of any rights or principles that we have not previously recognized, the expansion of the content or coverage of existing rights or principles, or any other change in the current state of treaty or customary international law. Further we understand the resolution’s reaffirmation of prior documents to apply to those who affirmed them initially. We read this resolution’s references to the right to safe drinking water and sanitation in accordance with our September 27, 2012

statement in Geneva on this topic and our July 27, 2011 statement in New York at the UNGA plenary meeting.

The resolution also recognizes the harmful effects of armed conflict on children, and we emphasize that all parties to armed conflict must comply strictly with their obligations under international law, in particular international humanitarian law. In accordance with those obligations, parties to armed conflict must refrain from making protected civilians and civilian objects, including children and schools, the target of attack.

Finally, we wish to underscore that we have agreed to this resolution's invitation to the World Health Organization to prepare a study concerning children's mortality and human rights on the express understanding that this invitation does not represent a precedent. In this instance, we have agreed to this invitation on the understanding that WHO is ready and prepared to accept it, and has sufficient resources to do so. While the topic of child mortality is an important topic and we welcome WHO's collaboration with the Office of the High Commissioner for Human Rights on matters of human rights and health, we underscore that OHCHR has the primary mandate for the promotion and protection of human rights and is the appropriate body for this Council to invite to prepare reports. OHCHR must remain in the lead on human-rights reporting.

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***b. UN General Assembly***

On December 18, 2013, the United States joined consensus in adopting the annual UN General Assembly resolution on the rights of the child. U.N. Doc. A/RES/68/147. The U.S. explanation of its position on the resolution follows.

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The United States is very pleased to join consensus on the Rights of the Child resolution today, which focuses on children head of households. We welcomed working with the sponsors and other partners throughout the lengthy negotiation process.

While we support the resolution's theme and goals in regard to protecting the rights of children, including those heading households due to unfortunate circumstances, there were some areas of the resolution that would have benefited from more precision and nuance.

For example, while we understand the importance of family unity and working to avoid situations where children are left as heads of households or in contact with only one parent, there are several factors to consider when families are separated by national borders, including immigration restrictions. We also appreciate the critical role of governments in supporting and protecting children, but at the same time are mindful of the primary role of families, and of respecting an appropriate balance in that regard.

Today's young people are maturing earlier, both physiologically and socially, and too many adolescents, either because of country policies or the attitudes of health providers, lack access to sexual and reproductive health services. Many lack access to comprehensive sexuality education which helps young people, including those 18 years and younger, build the skills they will need to successfully negotiate relationships, and can help promote gender equality and

human rights. We believe in the affirmative goals set forth in The Program of Action that was adopted by 179 governments at the 1994 International Conference on Population and Development (ICPD) in Cairo, and reaffirmed in many international documents since then, which recognize that for women and young people to realize their full potential, they must be able to attain the highest standard of sexual and reproductive health. We must do much more to make available comprehensive reproductive health services as well as accurate information and education on sexuality for not only women and men, but also girls and boys as they age and as their needs evolve. We must foster equal partnerships and sharing of responsibilities by all family members in all areas of family life, including in sexual and reproductive life, and promote frank discourse in relation to sexual health and reproduction. New thinking and renewed vigor in our approach and partnerships can bring us closer to attaining ICPD goals for the current and future generations of young people.

This resolution calls upon States to ensure that life imprisonment without the possibility of release is not imposed on individuals under the age of 18. This requirement is not an obligation that customary international law imposes on States; rather, it reflects treaty obligations that the United States has not undertaken.

The United States would also like to note that we join consensus on this resolution today with the express understanding that it does not imply that States must become parties to instruments to which they are not a party or implement obligations under human rights instruments to which they are not parties. Furthermore, to the extent that it is implied in this resolution, the United States does not recognize creation of any new rights which we have not previously recognized, the expansion of the content or coverage of existing rights, or any other change in the current state of treaty or customary international law. In particular, the United States would like to recall its previous positions on economic, social, and cultural rights. Further we understand the resolution's reaffirmation of prior documents to apply to those who affirmed them initially.

While we recognize the ambition to create a comprehensive resolution on all children's issues, we would urge the main sponsors to aim for a more streamlined text next year. We look forward to working with the co-sponsors and other delegations on this important resolution. Thank you.

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### **3. Children and Armed Conflict**

#### ***a. United Nations***

On June 17, 2013, U.S. Alternate Representative to the UN for Special Political Affairs Jeffrey DeLaurentis delivered remarks at the UN at a Security Council open debate on Children and Armed Conflict. Ambassador DeLaurentis mentioned Syria, the Democratic Republic of Congo, and Burma as examples of countries where the situation of children in armed conflict is particularly dire. He went on to call for greater and more cross-cutting efforts to address the problem of children and armed conflict ("CAAC"):

Indeed, the Security Council requires more effective ways to deal with the growing number of persistent perpetrators, especially among armed groups. In this regard, we appreciate the Working Group's focus on this issue, its efforts to develop appropriate tools, and commend the Secretary-General's proposals, which deserve this Council's serious consideration.

The question of persistent perpetrators, however, raises a larger issue about the UN CAAC process itself. We can be proud of what it has accomplished, and we must strive to make it as effective as it can be. But it is only one tool among the many we should be using to protect children. Rather than attempting to make the Action Plan process a one-size-fits-all mechanism, we should promote CAAC Action Plans in tandem with other tools to comprehensively address the various contexts in which children are subjected to abuse.

A wider range of efforts is needed, from holding perpetrators accountable and preventing them from committing abuses to resolving situations of conflict that enable such heinous crimes. For example, the conviction of Thomas Lubanga for unlawful child soldiering by the International Criminal Court sends an important message that these crimes will not be tolerated. Furthermore, several African countries are cooperating, with the support of the African Union, the United Nations, the United States, and others, to end once and for all the threat posed by the Lord's Resistance Army (LRA), one of the world's worst perpetrators of crimes against children. As noted in the Council's discussion on May 29, this effort has resulted in a substantial drop in LRA attacks, the removal of two top LRA commanders from the battlefield, and the defection of scores of LRA fighters. And finally, peacemaking efforts work to safeguard endangered children by ending the armed conflict itself. Connecting these efforts into a comprehensive approach will strengthen the ultimate goals of the CAAC Action Plan process and concretely advance the plight of children caught in harm's way.

Ambassador DeLaurentis's remarks are available in full at <http://usun.state.gov/briefing/statements/210722.htm>.

**b. *Child Soldiers Prevention Act***

Consistent with the Child Soldiers Prevention Act of 2008 ("CSPA"), Title IV of Public Law 110-457, the State Department's 2013 Trafficking in Persons report listed the foreign governments that have violated the standards under the CSPA, *i.e.* governments of countries that have been "clearly identified" during the previous year as "having governmental armed forces or government-supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit and use child soldiers," as defined in the CSPA. Those so identified in the 2013 report are the governments of Burma, Central African Republic, Chad, Democratic Republic of the Congo, Rwanda, Somalia, South Sudan, Sudan, Syria, and Yemen. The full text of the TIP report is

available at [www.state.gov/j/tip/rls/tiprpt/2013/index.htm](http://www.state.gov/j/tip/rls/tiprpt/2013/index.htm). For additional discussion of the TIP report and related issues, see Chapter 3.B.3.

Absent further action by the President, the foreign governments designated in accordance with the CSPA are subject to restrictions applicable to certain security assistance and licenses for direct commercial sales of military equipment. In a memorandum for the Secretary of State dated September 30, 2013, President Obama determined, “that it is in the national interest of the United States to waive the application of the prohibition in section 404(a) of the CSPA with respect to Chad, South Sudan, and Yemen,” and that, with respect to the Democratic Republic of the Congo and Somalia it is in the national interest that the prohibition should be waived in part. 78 Fed. Reg. 63,367 (Oct. 23, 2013).

## **D. ECONOMIC, SOCIAL, AND CULTURAL RIGHTS**

### **1. Education**

Ambassador Donahoe delivered remarks at the 23<sup>rd</sup> session of the HRC explaining the U.S. position on, and vote in favor of, the resolution on the right to education adopted by the HRC. U.N. Doc. A/HRC/RES/23/4. Her June 13, 2013 statement is available at <http://geneva.usmission.gov/2013/06/13/the-u-s-firmly-committed-to-the-right-to-education/> and appears below.

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The United States strongly supports the right to education, and this resolution’s focus on it. We firmly believe in the importance of this human right.

The United States is firmly committed to providing equal access to education, and our history provides clear and powerful examples of the important role courts can play in promoting that right. We profoundly understand the important role that relevant adjudicatory mechanisms can play in promoting the implementation of the right to education, and we interpret the provisions of this resolution in that light. We further note that our judicial framework provides robust opportunities for redress but is appropriately limited to parties who have suffered harm. On the legislative side, we have a strong statutory commitment to ensuring non-discriminatory access to education which we hope may serve as example of legislative initiatives as recommended in this resolution. As is well known, the United States notes that it is not a party to the International Covenant on Economic, Social, and Cultural Rights, nor to the associated Optional Protocol. Further, in joining consensus on this resolution, the United States notes that it does not recognize any change in the current state of conventional or customary international law.

We also firmly believe in the importance of quality in education, and of increased attention to it, but note concern with any attempts to add to the right to education vague components that are difficult to define and quantify.

With respect to this resolution's references to private providers, we support encouraging private providers to deliver education consistent with its importance as a public good, and we further take very seriously the responsibility of the state to intervene in litigation as appropriate.

Additionally, we are concerned that the resolution includes declarative language on the priorities and structure of the post-2015 development agenda. While we are strong supporters of international education efforts, we believe that language is out of step with the early stage of the post-2015 development agenda discussions and the emphasis on broad consultation and inclusivity in crafting the agenda which member states and the Secretary General have called for. The U.S. does not regard the language in this resolution as assigning primacy to any one issue or in any other way pre-judging the outcome of full intergovernmental negotiations on the post-2015 development agenda.

Despite these concerns and because this resolution is generally consistent with our strong support for education, we join consensus on this resolution and the sponsors of this resolution for their focus on an important human right, the right to education.

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## 2. Food

On March 21, 2013, the United States joined consensus on a resolution adopted by at the 22<sup>nd</sup> session of the HRC on the right to food. U.N. Doc. A/HRC/RES/22/9. Attorney Adviser Julianna Bentes delivered the statement on behalf of the U.S. delegation, excerpted below, and available at <http://geneva.usmission.gov/2013/03/22/u-s-explanation-of-position-right-to-food/>.

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The United States joins consensus on this annual resolution on the right to food in recognition of our ongoing support for and leading role in the broader goal of worldwide food and nutrition security. We recognize the importance of maintaining a focus on global food security in order to realize our vision of a world free from hunger. However, we are disappointed that this resolution continues to employ language that distracts from the larger issues at play. For instance, statements on trade and trade negotiations are inappropriate for the Human Rights Council to address, as they are both beyond the subject-matter and the expertise of this Council. We also wish to clarify that this resolution today will in no way undermine or modify the commitments of the United States or any other government to existing trade agreements or the mandates of ongoing trade negotiations.

Nonetheless, we are pleased that both this resolution and the Special Rapporteur's report emphasize the important link between the empowerment of women and the progressive realization of the right to food in the context of national food security. Empowering women and improving global food security are key foreign policy objectives of the United States. Whether it be through our Feed the Future Initiative, programs to support women entrepreneurs in Africa and in the Americas, or our programs that seek to help achieve the hunger and poverty-related MDGs, the United States is committed to incorporating a gender equality perspective in our

efforts to address the root causes of hunger and poverty and to forge long-term solutions to chronic food insecurity and undernutrition.

For more than a decade the United States has been the world's largest food aid donor. We do not concur with any reading of this resolution or related documents that would suggest that states have particular extraterritorial obligations arising from a right to food. Rather we pursue such a role because we understand that in order to advance global stability and prosperity we must all work together to improve the most basic of human conditions: the need that families and individuals have for a reliable source of quality food and sufficient resources to purchase it.

The United States asserts that this resolution over-emphasizes the term "global food crisis," when in fact we are not in one globally, thereby detracting from arguably more important and relevant challenges. Factors such as long-term conflicts, lack of strong governing institutions, and systems that deter investment plague many regions and contribute significantly to the recurring state of regional food insecurity. Similarly, the current high and volatile food prices we see in some parts of the world are another significant contributor to food insecurity. Yet these issues are not even mentioned in the resolution.

We would also like to take the opportunity to note that the text contains many references to obligations on the part of donor nations and investors. We believe that a well-balanced text would also include references to obligations of nations receiving assistance—specifically regarding transparency, accountability, and good governance, as well as the obligation to create an environment conducive to investment in agriculture.

As we have stated here in previous years, as well as in a wide variety of fora, we support the right of everyone to an adequate standard of living, including food, as recognized in the Universal Declaration of Human Rights.

However, we must take this opportunity to reiterate that the United States is not a party to the International Covenant on Economic, Social and Cultural Rights, and joining consensus on this resolution does not recognize any change in the current state of conventional or customary international law regarding rights related to food. Overall, we view the right to food as a desirable policy goal; it is our objective to achieve a world where everyone has adequate access to food. We do not, however, treat the right to food as an enforceable obligation. We interpret this resolution's references to the right to food, with respect to States Parties to the aforementioned Covenant, in light of its Article 2(1). We interpret this resolution's references to member States' obligations regarding the right to food as applicable to the extent they have assumed such obligations.

Furthermore, while we take note of the work of the Advisory Committee, including its work on the human rights of urban poor people, we believe that its work is duplicative and wasteful of other UN entities. Instead, we should be taking into account relevant authoritative UN outcome documents, such as the FAO's State of Food and Agriculture and State of Food Insecurity reports, and the Comprehensive Framework for Action of the Secretary General's High Level Task Force.

We also reiterate our concern about unattributed statements of a technical or scientific nature in this resolution; the United States does not necessarily agree with such statements.

Finally, we interpret this resolution's reaffirmation of previous documents, resolutions, and related human rights mechanisms as applicable to the extent countries affirmed them in the first place.

By robbing people of a healthy and productive life and stunting the development of the next generation, hunger leads to devastating consequences for individuals, families,



communities, and nations. Therefore, despite the many concerns that we have, the United States will not block consensus on this sprawling resolution. We are committed to investing in a wide variety of approaches to sustainably reducing hunger and poverty around the world.

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### 3. Water and Sanitation

On September 27, 2013, the U.S. delegation provided an explanation of its position, joining consensus on the resolution at the 24<sup>th</sup> session of the HRC on “the human right to safe drinking water and sanitation.” U.N. Doc. A/HRC/RES/24/18. The United States made clear, however, that it did not join consensus on the paragraph in the preamble to the resolution that contains an overly expansive definition of the right to water, one that does not appear in an international agreement. The U.S. explanation of position appears below and is available at <http://geneva.usmission.gov/2013/09/27/eop-the-human-right-to-safe-drinking-water-and-sanitation/>.

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We are pleased to join consensus on this resolution and thank the cosponsors for their efforts in finding consensus on this important topic. The United States recognizes the importance and challenges of meeting basic needs for water and sanitation to support health, economic development, peace and security. There is no question of the increasing importance of water as an issue. A 2012 report by the U.S. National Intelligence Council titled “Global Water Security” found that many countries will experience water problems risking instability and state failure, increasing regional tensions, and hindering countries’ abilities to address their needs relating to food, energy and health.

For these reasons, the United States remains deeply committed to addressing the global challenges relating to water and sanitation. The United States is working to improve water resources management and promote cooperation on transboundary water. We encourage countries to prioritize access to safe drinking water and sanitation, on a non-discriminatory basis, in national development plans and strategies. We have made access to safe drinking water and sanitation a priority in our own development assistance efforts. The United States is one of the largest bilateral donors to water supply and sanitation programs, as well as one of the largest donors to several development banks treating this problem, including the World Bank, the African Development Bank, and the Inter-American Development Bank.

In 2010, 2011, and 2012, the United States joined consensus on three resolutions of this Council affirming that the human right to safe drinking water and sanitation is derived from the economic, social and cultural rights contained in the International Covenant on Economic, Social and Cultural Rights. As such, we support States Parties to that Covenant as they undertake steps to achieve progressively its full realization.

We also stress that we read preambular paragraph 14 of this year’s resolution to be consistent with those previous resolutions, which noted that transboundary water issues fall outside the scope of this right.

In addition, while the United States agrees that safe water and sanitation are critically important issues, we do not accept all of the analyses and conclusions in the Special Rapporteur's most recent report. The United States appreciates this resolution's recognition that sustainability represents an important policy objective. At the same time, it is important to keep in mind that States must balance it with other goals relating to progressively realizing the right to safe water and sanitation.

The United States also believes the post-2015 development agenda should be consistent with States' human rights obligations. We also underscore that the discussions among the broader UN membership to develop this new framework are still in an early stage and that, as a result, this resolution does not prejudge those discussions. In that regard, the United States notes that we do not read this resolution as calling for the post-2015 agenda to address water specifically. Nor do we read it as calling for states, when they elaborate that agenda through discussions among the broader UN membership, to assign primacy to water over other considerations. As these discussions progress, we believe the international community should focus concretely on issues of access, inclusion, and governance, as well as good policies and practical implementation.

In conclusion, while we are pleased to join consensus on this year's resolution, the United States unfortunately must disassociate from consensus on preambular paragraph 15. The language used to define the right to water in that paragraph is based on the views of the Committee on Economic, Social, and Cultural Rights, but this Council has never previously adopted it, nor does it appear in an international agreement. The United States does not agree with this definition due to the expansive way this right has been articulated. This language does not represent a consensus position.

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The United States co-sponsored the resolution on "the human right to safe drinking water and sanitation," adopted by the UN General Assembly at its 68<sup>th</sup> session on December 18, 2013. A/RES/68/157.

#### 4. Health

The HRC adopted a resolution at its 23<sup>rd</sup> session on "Access to medicines in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." U.N. Doc. A/HRC/RES/23/14. On June 13, 2013, the U.S. provided the following explanation of its decision to call a vote and abstain on the resolution. The U.S. explanation of vote is excerpted below and available in full at <http://geneva.usmission.gov/2013/06/13/eov-on-the-resolution-on-access-to-medicines/>.

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The United States thanks Brazil for its continued dedication to an issue of tremendous importance to all countries. Regarding this resolution, however, my country has decided to call a vote and abstain. Some of our reasons follow.

For many years now the United States has joined other countries in supporting the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. While we recognize the importance of access to medicine, we note that countries have a wide array of policies and actions that may be appropriate in promoting the progressive realization of the right to the enjoyment of the highest available standard of physical and mental health. Therefore, we think that this resolution should not try to define the content of the right.

Furthermore, to the extent that it is implied in this resolution, the United States does not recognize creation of any new right which we have not previously recognized, the expansion of the content or coverage of existing rights, or any other change in the current state of treaty or customary international law.

The United States commitment in the arena of global health is unsurpassed. Through programs such as the Global Health Initiative, PEPFAR, and the President's Malaria Initiative, as well as through investments in medicines research led by our National Institutes of Health, and extensive technical engagement and financial contributions to multilateral health institutions, the United States plays an important, catalyzing role encouraging innovation and voluntary mechanisms that increase access to affordable health products and technologies to people around the world.

At the same time, the United States has strong concerns about a number of the provisions of the resolution. The goal of greater access to medicines, and particularly to essential medicines, is, for each country, a multi-faceted and complex issue. States have to prioritize the access goal and promote public health policies in a manner best suited for their circumstances and consistent with their human rights and other international obligations.

We regret that the resolution, in the context of human rights, has a select emphasis on issues of intellectual property and trade. There often exist multiple reasons why essential medicines are less widely available than they should be in some countries. Inappropriate tax and tariff policies, insufficient health systems, inadequate access to financing, or lack of essential medicines procurement systems in place to support health delivery, services, and access, can all serve as internal barriers. Many of these are best addressed by taking domestic action.

In addition, the United States does not agree with the resolution's assertion that local production actually increases access or affordability. While it may have potential economic benefits unrelated to health, we would urge States only to undertake the promotion of local production when local circumstances and economic analysis make clear that doing so is likely to result in lower prices, comparable quality, and increased access.

The United States reiterates its support for the Doha Declaration on TRIPS and Public Health and wishes to emphasize that nothing in this resolution is intended to or should be interpreted as altering the scope or meaning of that Declaration or any other part of the TRIPS Agreement.

We would also like to encourage the Human Rights Council and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to consider and focus on other aspects of this issue, especially those that have been more neglected.

Every government can and in fact should work to provide access to affordable, safe, efficacious and quality essential medicines for all. We look forward to continue working with our partners to address this and other critical issues facing our countries.

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On September 26, 2013, the 24<sup>th</sup> session of the HRC adopted, without a vote, a resolution on “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” U.N. Doc. A/HRC/RES/24/6. The general statement of the U.S. delegation on the resolution is excerpted below and available at <http://geneva.usmission.gov/2013/09/26/the-right-of-everyone-to-the-enjoyment-of-the-highest-attainable-standard-of-physical-and-mental-health/>.

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For many years now the United States has joined other countries in supporting resolutions on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. We are pleased to cosponsor today this resolution renewing the mandate of the Special Rapporteur. With this mandate renewal, we look forward to a renewed focus on pressing human rights concerns, especially those of the most needy.

The United States believes access to health coverage is a necessary element in the full realization of one’s health potential. The expansion of health care coverage has been at the forefront of our domestic agenda and we commend the leadership of other countries who have made it a priority. The United States also believes that health coverage is a national-level concern and responsibility. For progress and sustainability, national governments must take on the fundamental challenges to move toward more inclusive access.

At the same time, the United States has had strong concerns about a number of the provisions in previous resolutions adopted by this body and included in reports of the Special Rapporteur, including a selective emphasis on issues of intellectual property and trade as well as access to medicines. The Special Rapporteur will have the greatest impact if he or she uses the position to help States prioritize goals of access and promote public health policies relevant to their national circumstances, consistent with their human rights and other international obligations. On this note, the position of the United States with regard to economic, social and cultural rights is well known. We cosponsor this resolution in that light, and with the goal of furthering access to healthcare around the world.

Every government can and in fact should work to provide access to affordable, safe, efficacious and quality health care for all. We urge continued attention to the important wider range of human rights issues related to health, especially one relating to those most in need.

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## E. HUMAN RIGHTS AND THE ENVIRONMENT

On March 6, 2013, the U.S. delegation to the 22<sup>nd</sup> session of the HRC delivered a statement at the interactive dialogue following the preliminary report of the independent expert on human rights and the environment. That statement is excerpted below and available at <http://geneva.usmission.gov/2013/03/07/u-s-intervention-on-human-rights-and-the-environment/>.

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The United States thanks Professor Knox for preparing a comprehensive and thoughtful report that looks at the broad range of issues we encounter when we talk about the relationship between human rights and the environment. We appreciate the detail and thoroughness of this preliminary report and believe it provides an excellent basis for continuing our discussion of these issues. Countries around the world face many of the challenges the report describes. International cooperation can play a key role in our meeting such challenges.

In particular, we support the report's focus on procedural rights and the identification of "human rights vital to environmental policymaking" as especially promising avenues for the Independent Expert to explore in more depth. In this regard, the United States notes that it strongly supports the right of all individuals to express themselves freely, including environmental activists as the Independent Expert describes.

We also applaud his attention to best practices, which have proven to be useful tools as they provide valuable information and insight into the cause and effect of policies. At times, specific case studies may not be directly relevant to a country's particular circumstances. However, best practices can provide the foundation for aspirational goals, increase understanding through lessons learned, or allow countries to accelerate progress in a related area.

The United States appreciates the Independent Expert's empirical approach, and we would welcome his clarification of the meaning of "evidence-based approaches" with respect to obligations.

We would also like to request greater clarification about how the Independent Expert intends to address Millennium Development Goal Number 7. We anticipate that maintaining a broad view of the concept of the goal (ensuring environmental sustainability), rather than delving into the elements that comprise it (for example, exploring the human rights aspects of the fact that the 2010 biodiversity targets were not met), will make for a more productive and more broadly applicable outcome.

We also note that a number of aspects of the relationship between human rights law and the environment, particularly with respect to substantive obligations, are neither well understood nor established. While an examination of human rights obligations relating to transboundary and global environmental harm — for example with regard to climate change — falls within the mandate of the Independent Expert, these are particularly complex and novel issues. We would urge the Independent Expert to take a measured approach that focuses on describing the international law as it stands rather than seeking to develop or create new norms.

We take a different view from that presented by the Independent Expert on certain other aspects of the report as well, such as in the discussion of third-party harms and in some of the nuances of the discussion of various vulnerable groups.

The discussion of the relevance of human rights to the protection of non-human rights aspects of the environment is also worth reconsideration. We caution that pursuing this line of inquiry could be a distracting and inconclusive exercise.

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## F. BUSINESS AND HUMAN RIGHTS

### 1. Implementation of Guiding Principles

In 2013, the United States continued to promote implementation of the Guiding Principles on Business and Human Rights, which were endorsed by the Human Rights Council in 2011 in resolution 17/4. On May 1, 2013, the U.S. Department of State released “The U.S. Government Approach on Business and Human Rights,” available at [www.humanrights.gov/2013/05/01/u-s-government-approach-on-business-and-human-rights/](http://www.humanrights.gov/2013/05/01/u-s-government-approach-on-business-and-human-rights/). The statement of the U.S. delegation at a clustered interactive dialogue during the 23<sup>rd</sup> session of the HRC on May 30, 2013 highlights U.S. implementation actions. That statement is excerpted below and available at <http://geneva.usmission.gov/2013/05/31/human-rights-transnational-corporation/>. For background on the Dodd-Frank Act, mentioned in the U.S. statement, see *Digest 2012* at 410-12. See also Chapter 11.D.2.a. on the efforts by the United States to work with the government of Bangladesh to ameliorate working conditions in that country.

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The United States Government thanks the UN Working Group on the issue of human rights and transnational corporations and other business enterprises for its report. We support the work of the Working Group in promoting the dissemination and implementation of the UN Guiding Principles. We were pleased to participate in the State survey summarized in the Working Group’s report and encourage other States to provide information to the Working Group on measures they have taken to implement the Guiding Principles. Such information could then be the basis for a fruitful exchange on best practices.

One set of practices we would like to highlight is that of due diligence reporting in national laws and regulations, which can increase transparency. For example, Section 1502 of the Dodd Frank Wall Street Reform and Consumer Protection Act encourages responsible sourcing of certain “conflict minerals” from the African Great Lakes Region. In a similar vein, upon easing sanctions in Burma, we instituted a set of Reporting Requirements on Responsible Investment, calling on U.S. persons that invest more than an aggregate \$500,000 in Burma to report annually on human rights policies and procedures, among other key areas for due diligence. Section 1502 and the Burma Reporting Requirements both encourage companies to

uphold high standards in new and/or challenging investment climates. Increasing transparency leads to increased corporate accountability and can minimize adverse impact by businesses on human rights.

We also support the call for states to consult with external stakeholders, and for the financial sector to contribute to efforts and initiatives aimed at clarifying the operational implications of the Guiding Principles across different segments of the financial sector. Over the past year, the United States has held two workshops with investors to discuss strategies for investment firms to incorporate the UN Guiding Principles into their regular business practices, including the use of non-financial factors in decision-making. We have also hosted workshops focused on the Guiding Principles. These conversations are an important first step to human rights challenges in a complex global economy. We will continue to make consultations with external stakeholders a priority, in line with the Working Group's recommendation, and encourage other states to do the same.

For more information on how business and human rights are integrated into U.S. foreign policy, we would refer you to a summary we have just issued, which can be found on *humanrights.gov*.

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## 2. Extractive industries

On June 19, 2013 at a Security Council debate on conflict prevention and natural resources, U.S. Ambassador to the UN Susan E. Rice elaborated on the connection between the extractive industries and armed conflicts. Her remarks are available at <http://usun.state.gov/briefing/statements/210932.htm> and are excerpted below.

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Since 1990, at least 18 armed conflicts have been fueled by the exploitation of natural resources. At least 40% of all intrastate conflicts over the last 60 years have a link to natural resources. The Security Council is currently dealing with several conflict countries in which natural resources have played a central role. From diamonds in West Africa to coltan in the Great Lakes region, the irresponsible exploitation and illicit trade in natural resources have financed conflict, motivated antagonists, and increased susceptibility to conflict by fomenting corruption and competition for wealth. For evidence, we need look no farther than the horrors perpetrated in Sierra Leone in the 1990s or the current conflicts in the DRC and CAR.

Moreover, the illegal exploitation of extractive resources often contributes to the unraveling of post-conflict peacebuilding processes. Conflicts associated with natural resources are twice as likely to relapse in the first five years. Societies that cannot responsibly manage the wealth of their extractive industries are at higher risk of instability and violence. In short, the illegal extraction and trade of natural resources are directly related to international peace and security and to this Council's business.

National governments must lead in responsibly managing the natural resources of their countries for the benefit of their peoples. But the international community must support them in doing so by reducing the space for corruption and helping to strengthen national governance. The United States actively promotes the responsible behavior of American companies in line with the UN Guiding Principles on Business and Human Rights. In July 2010, the U.S. Congress enacted legislation to diminish the potential for mineral supply chains to contribute to violence. Companies listed on the U.S. stock exchanges must now submit annual descriptions of their due diligence on the sourcing and chain of custody of conflict minerals from the African Great Lakes region. This legislation also elevated transparency standards in the extractive industries by requiring the disclosure of payments to governments for the commercial development of oil, gas, and mineral resources by certain companies. We welcome last week's vote by the European Parliament to adopt a similar rule.

The United States also supports several related global initiatives. The Kimberley Process, which the United States chaired last year, strengthens governance in international trade in mineral commodities. Since its inception, the Kimberley Process has reduced the trade in conflict diamonds to less than 1% of the world's total rough diamond trade from an estimated 15% in the 1990s. Multiple-stakeholder partnerships among governments, the private sector and civil society—such as the EITI—are making significant progress in addressing the link between extractive resources and conflict. The United States urges all states to embrace EITI principles of revenue transparency and to support the Voluntary Principles on Security and Human Rights Initiative, which promote the adoption of oil, and gas and mining companies of operational security measures that respect human rights.

Yet, intergovernmental regimes and multi-stakeholder partnerships are necessary but not sufficient. The Security Council must act as well. Since this Council last addressed natural resources and conflict in 2007, the Council has reinforced the Kimberley Process' actions on diamonds in the Cote d'Ivoire and Liberia sanctions regimes and endorsed due diligence guidelines on conflict minerals in the DRC. We've also imposed and lifted a timber ban in Liberia and imposed a ban on charcoal exports from Somalia. In addition, last April, under the U.S. presidency, this Council called upon the UN system to strengthen member states' capacity to secure their borders to combat the transnational flow of illicit goods that can fuel conflict and breed insecurity. Whether imposing sanctions, authorizing field missions, or supporting mediation efforts, the Council's attention to these threats must continue.

Natural resources remain indispensable to many countries' economies. When managed and traded responsibly, these resources can accelerate development and improve living standards for millions. But when exploited for the benefit of the few or co-opted for nefarious purposes, they can fuel corruption, violence and conflict. States fortunate enough to be endowed with such wealth owe at least this to their people. And, we who sit on this Council owe it to them not just to discuss this challenge but to act in the numerous real-world cases where the illicit extraction and trade of natural resources threatens international peace and security.

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## G. INDIGENOUS ISSUES

On May 21, 2013, Terri Robl, Deputy U.S. Representative to ECOSOC, delivered a statement at the discussion on indigenous youth in the Permanent Forum on Indigenous Issues ("PFII"). That statement is excerpted below and available at <http://usun.state.gov/briefing/statements/209773.htm>.

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...[T]he United States appreciates very much the opportunity to address this forum and to highlight actions taken in 2012 and 2013 in favor of indigenous peoples and their communities, which also benefit indigenous youth.

At the 2012 White House Tribal Nations Conference, high-level U.S. consultations with indigenous tribal leaders that were started in 2009, President Obama addressed attendees and Cabinet Secretaries participated in breakout sessions with conference participants. The breakout sessions allowed for frank discussion on areas that indigenous peoples identified as important, including economic development, housing, energy, law enforcement, disaster relief, education, and strengthening the government-to-government relationship. We invite you to review the report released in connection with the conference, entitled "Continuing the Progress in Tribal Communities", for details about U.S. government policies and actions in favor of indigenous peoples and indigenous youth in the United States. I will highlight just a few initiatives here.

First, in the area of education, the U.S. Government supports science, technology, engineering, and mathematics (STEM) education in tribal colleges and universities, as well as the preservation of Native languages in schools while advancing proficiency in English. For health, U.S. government-funded community health centers provide services to hundreds of thousands of American Indians and Alaskan Natives. We fund numerous substance abuse and mental health programs, including some devoted to suicide prevention. On improving living conditions in communities, the President's fiscal year 2013 budget request includes \$650 million for the Indian Housing Block Grant. The Safe Indian Communities Initiative aims to support the prevention of violent crime in tribal communities. And in favor of environmental and cultural preservation, we support programs to introduce Native American students to career opportunities in the field of conservation.

The Obama Administration has worked to resolve longstanding Native American legal trust claims against the United States and private entities related to land, water, natural resources, and other issues. Between January and November 2012, the Administration settled the trust accounting and management claims of 59 individual tribes. Since taking office in 2009, the Obama Administration has processed successfully over 1,100 tribal applications for taking lands

into trust on behalf of tribes. The tribal lands in the United States have grown by more than 200,000 acres in this timeframe.

In July 2012, President Obama signed the Helping Expedite and Advance Responsible Tribal Homeownership Act (HEARTH Act) into law. Under the HEARTH Act, tribal governments have the ability to enact regulations to govern the leasing of tribal lands, which enhances tribal control over these lands. The Act also reduces the time it takes to get a lease of tribal lands approved, thereby promoting economic development of Indian lands.

We are now past the two-year anniversary of the 2010 Tribal Law and Order Act (TLOA), which has steadily improved the federal government's ability to work with Indian tribes in investigating and prosecuting crimes affecting indigenous communities. The TLOA gives tribes greater sentencing authority; strengthens defendants' rights; helps at-risk youth; establishes new guidelines and training for officers handling domestic violence and sex crimes; improves services to victims; helps combat alcohol and drug abuse; expands recruitment and retention of Bureau of Indian Affairs and tribal officers; and gives officers better access to criminal databases.

The U.S. Congress passed a third extension of the Violence Against Women Act (VAWA) in February 2013, and President Obama signed the extension into law on March 7. This latest reauthorization contains an important new provision that allows indigenous tribes to prosecute non-Native perpetrators of violence against indigenous women for acts that occur on tribal lands. This is particularly important, given that indigenous women in the United States, including adolescent girls, face disproportionately high rates of domestic violence. The Act also continues effective programs and expands the protections and services available to survivors of violence.

Also, the Departments of the Interior, Energy, Agriculture, and Defense have recently entered into a Memorandum of Understanding on Sacred Sites, and developed an Implementation Plan to continue to work toward appropriate access to, and protection of, these significant places.

Finally, in 2012 the Department of the Interior's National Park Service, Bureau of Indian Affairs, Fish and Wildlife Service worked with the State of Montana and the Assiniboine and Sioux Tribes to successfully return genetically pure bison to their historic rangelands on the Fort Peck Indian Reservation.

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The United States delivered a statement at a panel discussion on indigenous peoples at the 24<sup>th</sup> session of the HRC in September in which it expressed support for the World Conference on Indigenous Peoples planned for 2014. See *Digest 2012* at 200-02 for a discussion of previous U.S. statements on the World Conference on Indigenous Peoples. The U.S. statement delivered September 17, 2013 follows and is available at <https://geneva.usmission.gov/2013/10/02/item-3-half-day-panel-discussion-indigenous-peoples/>.

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The U.S. government places importance on the high-level UNGA meeting known as the World Conference on Indigenous Peoples, consistent with our policy to strengthen our relationship with Indian tribes and include indigenous peoples' concerns in our broader policy objectives.

We support an inclusive preparatory process for the World Conference. The United States will hold a listening session with U.S. indigenous representatives on October 11 in Washington, so that we can hear their suggestions and expectations for the Conference.

As the World Conference would be enhanced by consideration of a wide range of views, broad indigenous input is essential. In consultations prior to the high-level meeting, the concerns of all indigenous peoples must be heard, with no groups being marginalized. Throughout the world, including in my own region of North America, indigenous peoples have leaders who are either elected through a democratic process or appointed through traditional processes to represent their peoples. The preparatory process would benefit from the observations of these leaders along with other persons.

Concerning the outcome document from the June 2013 preparatory meeting in Alta, the United States does not think that text should be the starting point for negotiations on an outcome document for the World Conference on Indigenous Peoples. Rather, the recommendations contained in the Alta document should be considered during negotiations on the high-level meeting outcome document.

The participants to the World Conference should include representatives designated by indigenous peoples, including representatives of tribal governments. Civil society partners—including non-governmental organizations that represent indigenous women and youth and indigenous persons with disabilities—should also have the opportunity to participate in the Conference. All processes for selecting credible representatives of indigenous governments must be completely transparent. The PFII Secretariat, working with the seven indigenous regional caucuses and the two thematic caucuses on youth and women, are involved in identifying the indigenous representatives who will participate in the World Conference. We appreciate the briefing the Secretariat provided to member states several months ago, and we welcome continued dialogue on this issue.

The World Conference's roundtables, with their interactive format, will allow for indigenous peoples' meaningful participation. The roundtable themes do not need to refer only to individual Declaration articles, but can also focus on current best practices for issues that cut across multiple Declaration articles. Possible topics could include "Lands, resources, the environment, and economic development;" "Cultures of indigenous peoples, including information about Indian cultures in their educational curricula and teaching Native languages;" and "Business and its impacts on indigenous peoples."

The General Assembly resolution on the World Conference calls for a concise, action-oriented outcome document. Such a political statement with recommended actions to improve the status of indigenous peoples is an appropriate product of the high-level meeting. It would also be useful to have a longer Chair's text, which would give a thorough account of the substantive roundtable and panel discussions. We also recommend that arrangements be made to receive input—including in written, electronic, pre-recorded, or telephonic format—from indigenous peoples and others who are unable to attend the World Conference in person.

We welcome the panelists' views on appropriate topics for the World Conference's roundtable discussions, as well as their suggestions on what the outcome document could contain.

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The United States co-sponsored a resolution on human rights and indigenous peoples at the 24th session of the HRC. U.N. Doc. A/HRC/RES/24/10. The U.S. statement on the resolution, delivered on September 26, 2013, appears below and is available at <http://geneva.usmission.gov/2013/09/26/general-statement-on-human-rights-and-indigenous-peoples/>. The HRC adopted an additional resolution on indigenous peoples on the same day, which extends the mandate of the special rapporteur. U.N. Doc. A/HRC/RES/24/9.

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The United States is pleased to co-sponsor the resolution on “Human Rights and Indigenous Peoples.” Indigenous peoples throughout the world face grave challenges, and the United States is committed to addressing these challenges both at home and abroad.

The United States echoes the resolution’s commendation of the efforts of the Special Rapporteur on the Rights of Indigenous Peoples and the Expert Mechanism on the Rights of Indigenous Peoples.

In order to further improve the situation of indigenous peoples, the United States believes that we must focus on the promotion and protection of both the human rights of indigenous individuals and the collective rights of indigenous peoples, and is pleased that the resolution covers both these topics in various ways. For example, operative paragraph 12 highlights the role of treaty bodies in promoting human rights, and we commend other sections of the resolution that highlight the importance of protecting the human rights of indigenous women and children and indigenous persons with disabilities.

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## **H. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT**

### **Report to the UN Committee Against Torture**

On August 12, 2013, the United States submitted its third, fourth, and fifth periodic reports to the United Nations Committee Against Torture (as one document), in keeping with the requirement for periodic reports in Article 19 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. 1465 U.N.T.S. 85 (1984). See *Digest 2005* at 341-71 regarding the second period report of the United States to the Committee, submitted on May 6, 2005. See also *Digest 2006* at 403-21, summarizing U.S. interactions with the Committee in response to the second periodic report, and *Digest 2007* at 375-77, excerpting the U.S. response to specific recommendations by the Committee in relation to the second periodic report. Excerpted below is the Introduction to the 2013 submission. The full text of the report is

available at [www.state.gov/j/drl/rls/213055.htm](http://www.state.gov/j/drl/rls/213055.htm). The report is also excerpted in Chapter 18.

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1. It is with great pleasure that the Government of the United States of America presents its Periodic Report to the United Nations Committee Against Torture concerning the implementation of its obligations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “Convention” or “CAT”), pursuant to Article 19 of the Convention. This document constitutes the third, fourth, and fifth periodic reports of the United States.

2. The absolute prohibition of torture is of fundamental importance to the United States. As President Obama stated in his address to the nation on national security, delivered at the National Archives on May 21, 2009: “I can stand here today, as President of the United States, and say without exception or equivocation that we do not torture, and that we will vigorously protect our people while forging a strong and durable framework that allows us to fight terrorism while abiding by the rule of law.” Most recently, in his May 23, 2013 speech at the National Defense University, the President reiterated that the United States has “unequivocally banned torture.”

3. Marking the anniversary of the CAT’s adoption on June 24, 2011, President Obama noted that, more than two decades ago, President Reagan signed and a bipartisan coalition provided Senate advice and consent to ratification of the Convention, “which affirms the essential principle that under no circumstances is torture ever justified.” President Obama continued:

. . . Torture and abusive treatment violate our most deeply held values, and they do not enhance our national security – they undermine it by serving as a recruiting tool for terrorists and further endangering the lives of American personnel. Furthermore, torture and other forms of cruel, inhuman or degrading treatment are ineffective at developing useful, accurate information. As President, I have therefore made it clear that the United States will prohibit torture without exception or equivocation, and I reaffirmed our commitment to the Convention’s tenets and our domestic laws.

As a nation that played a leading role in the effort to bring this treaty into force, the United States will remain a leader in the effort to end torture around the world and to address the needs of torture victims. We continue to support the United Nations Voluntary Fund for Victims of Torture, and to provide funding for domestic and international programs that provide assistance and counseling for torture victims. We also remain dedicated to supporting the efforts of other nations, as well as international and nongovernmental organizations, to eradicate torture through human rights training for security forces, improving prison and detention conditions, and encouraging the development and enforcement of strong laws that outlaw this abhorrent practice.

The full text of the President’s statement is available at [www.whitehouse.gov/the-press-office/2011/06/24/statement-president-international-day-support-victims-torture](http://www.whitehouse.gov/the-press-office/2011/06/24/statement-president-international-day-support-victims-torture).

4. Treaty reporting is a way in which the Government of the United States can inform its citizens and the international community of its efforts to ensure the implementation of those obligations it has assumed, while at the same time holding itself up to the public scrutiny of the international community and civil society. In preparing this report, the United States has taken the opportunity to engage in a process of stock-taking and self-examination. Representatives of U.S. government agencies involved in implementation of the Convention met with representatives of non-governmental organizations as part of outreach efforts to civil society in this process. The United States has instituted this process as part of its efforts to improve its communication and consultation on human rights obligations and policies. Thus, this report is not an end in itself, but an important tool in the development of practical and effective human rights strategies by the U.S. government.

5. This report was prepared by the U.S. Department of State (DOS) with extensive assistance from the U.S. Department of Justice (DOJ), the U.S. Department of Defense (DoD), the U.S. Department of Homeland Security (DHS), the U.S. Department of Education (ED) and other relevant components of the U.S. government. It responds to the 55 questions prepared by the Committee and transmitted to the United States on January 10, 2010 (CAT/C/USA/Q/5) pursuant to the new optional reporting procedure adopted by the Committee in May 2007 at its 38th Session (A/62/44). The information included in the responses supplements information included in the U.S. Initial Report (CAT/C/28/Add.5, February 9, 2000, hereinafter referred to as “Initial Report”) and its Second Periodic Report (CAT/C/48/Add.3, June 29, 2005, hereinafter referred to as “2005 CAT Report”), and information provided by the United States in connection with Committee meetings considering the reports, including its 2006 Response to List of Issues (April 28, 2006, hereinafter referred to as “Response to List of Issues”) and 2007 Follow-up (July 25, 2007). It also takes into account the Concluding Observations of the Committee Against Torture (CAT/C/USA/CO/2, July 25, 2006), as referenced in the questions provided by the Committee. Throughout the report, the United States has considered carefully views expressed by the Committee in its prior written communications and in its public sessions with the United States. A list of acronyms used in the report, and the full name of each, is attached as Annex B.

6. In the spirit of cooperation, the United States has provided detailed and thorough answers to the questions posed by the Committee, whether or not the questions or information provided in response to them bear directly on obligations arising under the Convention. It should be noted that the report does not address the geographic scope of the Convention as a legal matter, although it does respond to related questions from the Committee in factual terms.

7. The United States also directs the Committee’s attention to the Fourth Periodic Report of the United States of America to the United Nations Committee on Human Rights Concerning the International Covenant on Civil and Political Rights filed in December 2011 (hereinafter referred to as “2011 ICCPR Report,” available at [www.state.gov/j/drl/rls/179781.htm](http://www.state.gov/j/drl/rls/179781.htm)) and the U.S. Periodic Report Concerning the International Convention on the Elimination of All Forms of Racial Discrimination filed in June 2013 (hereinafter referred to as “2013 CERD Report,” available at ). Although the United States has endeavored to fully answer each of the Committee’s 55 questions in the text of this report, in a number of places the report also incorporates by reference sections of the 2011 ICCPR Report, the 2013 CERD Report, and the Common Core Document of the United States filed in December 2011 (hereinafter referred to as “CCD”) in the interest of full and robust reporting.

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## **I. JUDICIAL PROCEDURE, PENALTIES, AND RELATED ISSUES**

### **1. Death Penalty**

The United States provided an explanation of vote on the resolution on Belarus at the 23<sup>rd</sup> session of the Human Rights Council, available at <https://geneva.usmission.gov/2013/06/13/u-s-supports-hrc-resolution-on-the-situation-of-human-rights-in-belarus/>. The U.S. explanation of vote includes the following statement on the death penalty:

[W]e do not share the view that the death penalty equals inhumane treatment. We emphasize that the death penalty is not prohibited by international law, including the International Covenant on Civil and Political Rights, to which Belarus is a party, and that any decision to establish a moratorium or abolish the death penalty must be left to the people of Belarus to decide through domestic democratic processes.

The United States also provided an explanation of vote at the 22<sup>nd</sup> session of the Human Rights Council to accompany its vote in favor of a HRC decision on the high-level panel discussion on the question of the death penalty. That explanation of vote includes the following:

The United States is pleased to vote in support of his decision. International law does not prohibit capital punishment when imposed in accordance with a state's international obligations. Rather, it leaves the ultimate decision regarding its use or abolition to be addressed through the domestic democratic processes of individual Member States. We thank the sponsors of this resolution for producing a text that is carefully drafted and consistent with international law and practice. It is our hope that the high-level panel to be convened on the question of the death penalty will address all aspects of the argument about the death penalty, given the wide divergence of views regarding its abolition or continued use both within and among nations. We also urge all governments that employ the death penalty to do so in conformity with their international human rights obligations.

### **2. Arbitrary Detentions**

On March 5, 2013, the U.S. delegation provided a statement at the 22<sup>nd</sup> Session of the HRC regarding the working group on arbitrary detentions. The U.S. statement is excerpted below and available at <http://geneva.usmission.gov/2013/03/06/u-s->



[statement-on-the-protection-of-human-rights-while-countering-terrorism-and-on-arbitrary-detentions/](#).

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Regarding the Working Group's "Deliberation No. 9," the United States reserves on such questions as to whether and under what circumstances prolonged arbitrary detention may violate customary international law or whether there is a preemptory or *jus cogens* norm against it. However, we agree with the emphasis of the Working Group's report on the need for all States to enforce protections against arbitrary or unlawful detention and to provide means for a detained person to challenge the lawfulness of detention in accordance with applicable international obligations, paying due respect to the principle of *lex specialis* in situations of armed conflict, and the limits on the Working Group's mandate in that regard.

However, we see no need to rewrite or reinterpret treaty text, such as Articles 4 and 9 of the International Covenant on Civil and Political Rights, in order to underscore the importance of continued protection from unlawful or arbitrary detention. We would also emphasize the importance of the Universal Declaration of Human Rights in providing a yardstick by which the conduct of all States may be judged with respect to arbitrary arrest or detention, particularly those States that are not party to the International Covenant on Civil and Political Rights or other relevant international or regional conventions. Finally, as stated in our intervention on the Working Group's last report, the United States encourages the Working Group to concentrate on specific cases and circumstances of arbitrary detention rather than on attempting to summarize or restate the related legal obligations of States.

As for the Working Group's ongoing efforts to prepare draft basic principles and guidelines on remedies and procedures on the right of anyone deprived of his or her liberty, the United States notes that Resolution 20/16 requested that the Working Group seek the views of States and others, and inquires as to how the Working Group intends to proceed in seeking such views and what its timeframe for collecting such responses might be.

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## **J. FREEDOM OF ASSEMBLY AND ASSOCIATION**

### **1. Human Rights Defenders**

On March 8, 2013, Ambassador Donahoe delivered the statement for the United States at a general debate at the 22<sup>nd</sup> session of the HRC on resolutions concerning both human rights defenders and peaceful protests. Resolution 22/6 on protecting human rights defenders was adopted on March 21, 2013. U.N. Doc. A/HRC/RES/22/6. Resolution 22/10 on the promotion and protection of human rights in the context of peaceful protests was also adopted on March 21. U.N. doc. A/HRC/RES/22/10. Ambassador Donahoe's statement is excerpted below and available at



<http://geneva.usmission.gov/2013/03/08/too-many-governments-continue-to-restrict-freedoms-of-expression-and-association/>.

Ambassador Donahoe delivered a statement on human rights defenders at the 23<sup>rd</sup> session of the HRC as well. That statement is available at

<http://geneva.usmission.gov/2013/06/10/item8-4/>.

In November, the UN General Assembly's Third Committee passed a resolution on protecting women human rights defenders. The resolution was adopted by the General Assembly on December 18, 2013. U.N. Doc. A/RES/68/181.

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As we gather here, seized with a full agenda to promote and protect universal human rights, there are individuals in each of our countries who are working tirelessly to fight against human rights violations and degradation. Human rights defenders, who often work at great risk, threatened with reprisal, fight to ensure that the obligations and commitments of governments are implemented in the real world in their own communities. Whether through global movements, such as One Billion Rising, which struggles to bring an end to the cowardly scourge of violence against women, or through the courageous actions of individuals like Malala Yousafzai, who was almost assassinated for simply wanting to be educated, there is little doubt that human rights defenders are facing increasingly grave challenges to their lives and work. Too many governments continue to restrict rights such as freedom of peaceful assembly and association, and freedom of expression; and too many governments continue to threaten and harass both human rights defenders, and the lawyers and legal professionals who bravely represent them when a government clamps down. We must all work together to support Human Rights Defenders and ensure that governments uphold their freedom and human rights. We must also protect the lawyers and legal professionals who face threats and arbitrary restrictions on their ability to carry out their professional duties.

Human Rights Defenders, and civil society more broadly, are also vital in advancing the human rights of the most vulnerable. During this session we will be considering resolutions on the Rights of the Child, the Right of Persons Belonging to Minorities, and the Rights of Persons with Disabilities. In many cases, members of these vulnerable groups are discriminated against and do not have the ability to speak for themselves, so it is often through the tireless advocacy work of human rights defenders that their rights are protected. Nelson Mandela once said that “we owe our children—the most vulnerable citizens in any society—a life free from violence and fear.” Our children and other vulnerable members of our societies all deserve our utmost attention and protection. We look forward to working with our partners at the Council to ensure the rights of every person.

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## **2. Freedom of Assembly and Association Generally**

On September 13, 2013, Ambassador Donahoe delivered the statement on behalf of the U.S. delegation at the general debate on promotion and protection of all human rights

at the 24<sup>th</sup> session of the HRC. Her statement is excerpted below and available in full at <http://geneva.usmission.gov/2013/09/13/freedom-of-assembly-and-association-is-inextricably-linked-to-other-fundamental-freedoms/>.

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It is with great pride that the United States once again lends its support to the resolution on the freedoms of peaceful assembly and of association, and we are pleased to join our cross-regional partners, including the Czech Republic, Indonesia, Lithuania, the Maldives, Mexico, and Nigeria, in introducing this resolution. The special rapporteur Maina Kiai has proved to be a strong, independent, and credible voice highlighting the need to protect these freedoms, while also promoting best practices and providing technical assistance to governments. Adopting another resolution on this topic is important so the Council can maintain the important work of the special rapporteur and reaffirm a basic truth: civil society plays a pivotal role in promoting and protecting human rights, but can only do so when the universal rights of freedom of peaceful assembly and of association are protected. Democratic progress demands political participation through the exercise of the freedoms of peaceful assembly and association. We have seen time and time again the benefits that a vibrant civil society can inspire, including greater economic prosperity, societal innovation, and ethnic and religious harmony. Governments that violate freedoms of peaceful assembly and association put their societies at risk of economic stagnation, poverty, inflamed ethnic, racial, or religious tensions, broad unrest and violence, and other serious problems.

Furthermore, the freedoms of peaceful assembly and of association are inextricably linked to other fundamental freedoms, including freedom of expression and freedom of religion or belief. Citizens must be free to come together to advocate for change, express support, address community needs, and, most importantly, remind governments that they derive their authority from the will of the governed. Strong civil society also fosters transparent and accountable government.

Finally, we have witnessed continued violations of freedoms of peaceful assembly and of association. We have seen governments restrict civil activism and attack civil society organizations with impunity. These assaults frequently accompany periods of political turmoil or changes in power. The voice of civil society, as a reflection of the will of the people, should be heard most clearly during these transition periods. Unfortunately, it is during these times that freedoms of peaceful assembly and of association are most threatened.

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On September 26, 2013, Ambassador Donahoe again addressed the 24<sup>th</sup> session of the HRC to introduce a resolution on the rights to peaceful assembly and association. The resolution on freedom of assembly and association was adopted without a vote on September 26, 2013. U.N. Doc. A/HRC/RES/24/5. Ambassador Donahoe's statement is excerpted below and available at <http://geneva.usmission.gov/2013/09/26/u-s-introduces-resolution-on-rights-to-freedom-of-peaceful-assembly-and-association/>.

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Civil society organizations and related associations are facing an ongoing assault around the world. On the margins of the UN General Assembly earlier this week, President Obama and numerous like-minded government leaders, as well as the UN, foundations, and civil society organizations met to voice their concern about the global deterioration in the environment for civil society and agreed to take additional steps to address it. To that end, they noted in particular the importance of the mandate to be extended by the resolution we would like to introduce today, resolution A/HRC/24/L.7 “The rights to freedom of peaceful assembly and of association.”

We direct you to the oral revision that has been circulated.

We present this resolution for adoption along with the Czech Republic, Indonesia, Lithuania, the Maldives, Mexico, and Nigeria, and 60 co-sponsors including Angola, Botswana, Brasil, Egypt, Guatemala, Libya, Macedonia, Moldova, New Zealand, Panama, Republic of Korea, San Marino, Senegal, Serbia, Togo, and Uruguay. The resolution’s purpose is to support the work of the Special Rapporteur on these rights.

This resolution extends his mandate and marks the third specific resolution on this issue. We want to thank our core-group for their hard work on this text and for continuing to emphasize the importance of this issue in the Human Rights Council.

Three years ago, we joined Council colleagues in supporting the creation of a new special rapporteur on these rights. Now we present an extension of his mandate in order to continue the vital work he has undertaken on this issue. In May of this year we welcomed the Special Rapporteur’s annual report, which focused particularly on the undue restrictions relating to funding of associations and holding peaceful assemblies. We also look forward to the presentation of his report before the UN General Assembly on October 29, which will focus on elections, and highlight the importance of protecting the rights of freedom of peaceful assembly and of association, particularly during the time before, during, and after an election.

We bring this resolution before the council to reaffirm the necessity of the protection of such rights and to encourage countries around the world to engage with the Special Rapporteur. The resolution, among other provisions, calls upon states to cooperate fully with the Special Rapporteur in the performance of his mandate, to respond promptly to his urgent appeals and other communications, and to consider favorably his requests for visits.

Finally, we would like to re-affirm that the strength and vibrancy of nations depend on an active civil society and robust engagement between governments and civil society to advance shared goals of peace, prosperity, and the well-being of all. We note our deep concern that many governments are restricting civil society and the rights of freedom of association and expression, both online and offline.

We look forward to working with other Council members in the upcoming year on the rights to freedom of peaceful assembly and of association and we urge the Council to adopt this resolution by consensus.

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**K. FREEDOM OF EXPRESSION****1. General****a. *Protection of Journalists***

On July 17, 2013, Acting U.S. Permanent Representative to the UN, Rosemary DiCarlo, delivered remarks at a Security Council open debate on protecting journalists, convened by the United States. Her remarks are excerpted below and available at <http://usun.state.gov/briefing/statements/212072.htm>.

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Thank you, Deputy Secretary-General Eliasson, for your briefing and for your support to this issue. We also greatly appreciate the remarks of our four briefers, who have made a compelling case for the challenges and risks journalists face, and their experiences demonstrate the indispensable role that journalists play in focusing the world's attention on conflict. This is why the United States has convened today's open debate on protecting journalists.

Journalists are literally our eyes and ears in every corner of the world. They sound the warning when local tensions threaten to erupt into war. They document the suffering of civilians in conflict areas. And they expose human rights violations and war crimes. Journalists are critical to this Council's ability to remain well informed so that it may fulfill its mandate to maintain international peace and security.

Reporting from the former Yugoslavia in the 1990s brought attention to mass atrocities there and helped mobilize the international community's response, including support for a war crimes tribunal. More recently, this Council relied on videos, photos, and the reported accounts of citizens to understand the events taking place in Libya in 2011. This real-time reporting gave us the information necessary to act quickly to prevent even more horrific violence by the Qadhafi regime.

Tragically, this work is not without sacrifice, as the case of journalist Mohammed "Mo" Nabbous and his wife Samra Naas demonstrated. When a sniper killed Mo while he was broadcasting live during Qadhafi's assault on Benghazi, Samra, pregnant with their first child, took his place, declaring, "What he has started has got to go on, no matter what happens."

In Syria, the Assad regime continues to kill, imprison, and torture journalists. Mazen Darwish, head of the Syrian Center for Media and Freedom of Expression—the only Syrian-based non-governmental organization accredited to the United Nations—has been held incommunicado since February 2012 and was reportedly tortured by the Assad regime. His so-called crime, like so many of his colleagues, was exercising his universal right to freedom of expression to show the world the regime's atrocities.

As others have noted, Resolution 1738 reminds us that journalists operating in armed conflict are protected under international humanitarian law. Given the invaluable contribution of journalists to our work, this Council must do all it can to ensure their protection. Therefore, we ask the Secretary-General to increase his focus on the safety and security of journalists, media professionals, and associated personnel in his reports on the protection of civilians and in his

reports on peacekeeping missions whose mandates include civilian protection. Furthermore, we urge Member States-especially those who contribute troops and police to UN peacekeeping missions-to ensure that their judicial officials, law enforcement officers, and military personnel know their obligations under international human rights law and international humanitarian law regarding the safety of journalists.

Impunity for violence against journalists must end. The United States endorses fully the 2012 UN Plan of Action on the Safety of Journalists and the Issue of Impunity. We encourage Member States to enact its provisions and put in place voluntary protection programs for journalists operating in conflict areas. We also underscore the specific risks faced by women journalists, including sexual and gender-based violence. A gender-sensitive approach is needed when considering measures to address the safety of journalists.

New and emerging forms of 21st century communication technology, including various Internet fora, blogging, texting, and other social media platforms have transformed the way journalists, including citizen journalists, work. These new forms of communication have allowed wider and more rapid dissemination of information from conflicts across the globe. We call on all Member States to maintain and safeguard the infrastructure that enables the work of journalists in situations of conflict.

In conclusion, recognizing the value of the work of journalists reporting on conflict, this Council has an obligation to help protect those who provide us with so much vital information. We thank journalists around the world who risk their lives to seek the truth and shine light on the darkness for the entire world to see. The Security Council could not do its job without you. We thank you.

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**b. *Freedom of expression and women's empowerment***

On June 4, 2013, at the 23<sup>rd</sup> session of the HRC, the U.S. delegation delivered a statement introducing a resolution on the importance of freedom of expression to women's empowerment. The resolution was adopted by consensus on June 13, 2013. U.N. Doc. A/HRC/RES/23/2. The U.S. statement appears below and is available at <http://geneva.usmission.gov/2013/06/04/26051/>. For further discussion of issues relating to discrimination on the basis of gender, see section B.2., *supra*.

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At this session, the United States, as part of a broad cross-regional group, is proposing a resolution that stresses the importance of freedom of expression, especially as it relates to women's empowerment.

Respect for freedom of opinion and expression plays a fundamental role in the ability of women to interact with society at large, in particular in the realms of economic and political participation.

We have seen, time and again, that when citizens are able to express themselves freely and without fear of reprisal or retribution, societies reap the benefits, including greater economic prosperity, societal innovation, and ethnic and religious harmony. Governments that violate

freedom of expression impede societal progress, producing consequences that include poverty, economic stagnation, inflamed ethnic or religious tensions, and unrest among citizens who are prevented from fully participating in their societies or governments.

Women's participation in the political, economic, and social spheres is often particularly limited by undue restrictions on their right to freedom of expression. Discrimination, intimidation, harassment and violence often prevent women and girls from fully enjoying their human rights and fundamental freedoms, including their right to freedom of opinion and expression. We recognize the critical importance of women's participation in all contexts, and their essential contributions to the achievement of peace and development.

Freedom of expression is inextricably linked to other freedoms we consider essential, including the freedom of religion and belief. Freedom of expression allows us to engage in informed discourse on important issues before us in our own nations, and also allows us to work together to solve global challenges.

Freedom of expression is crucial for reaping the benefits of the Internet, which has fast become a space for innovative collaboration.

To ensure that we properly harness the transformative power of the Internet, we must ensure that the universal human rights that governments are obligated to respect in the offline world are equally protected online. We have seen that threats to Internet freedom are growing in number and complexity. Governments that block websites, censor search results, imprison journalists and activists, and impose laws that unduly restrict online discourse and the ability to seek information rob their citizens of their fundamental freedom of expression. We encourage these states to reverse these measures and respect their human rights obligations, in order to prevent the societal ills we have seen accompany the suppression of freedom of expression.

In this regard, we reiterate our support for HRC Resolution 20/8 and join the statement by Sweden on this topic.

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## **2. Internet Freedom and Privacy**

At the clustered interactive dialogue on freedom of expression and violence against women, held at the 23<sup>rd</sup> session of the HRC on June 3, 2013, the United States delegation delivered a statement commenting on a report of the special rapporteur on the relationship between the right to freedom of expression and privacy rights. That portion of the statement appears below and focuses on the limits of online privacy. The portion of the U.S. statement addressing violence against women appears in Section B.2.b., above. The statement in its entirety is available at

<http://geneva.usmission.gov/2013/06/03/clustered-interactive-dialogue-on-freedom-of-expression-and-violence-against-women/>.

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The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights state that no one shall be subjected to arbitrary or unlawful interference with his or her privacy. The central idea of Internet freedom is that human rights apply with the same force online as offline. This is true for privacy rights, which enable people to make the most of modern communication technologies.

But some governments see modern communications technologies as threatening, and have sought to use surveillance to attempt to control discourse and eliminate dissent. If governments are conducting surveillance of private communications for illegitimate purposes—for instance, to persecute dissidents—or if governments are conducting arbitrary surveillance or surveillance outside the rule of law, then that surveillance may constitute an arbitrary interference with privacy or an improper restriction on the rights to freedom of expression, association or assembly.

In contrast, to protect their citizens, governments must sometimes investigate criminal activity by lawfully obtaining online communications. Like other rights-respecting governments, the United States conducts surveillance for lawful purposes, pursuant to laws that are transparent, adopted pursuant to democratic processes, and subject to oversight by all three branches of government. In fact, the Foreign Intelligence Surveillance Act and its recent amendments, which the report mischaracterizes as providing a “blanket exception to the requirement for judicial authorization,” are expressly designed to bring certain privacy-impacting activities under judicial and congressional supervision. Such surveillance, used appropriately, supports human rights.

While the United States cannot endorse all of the conclusions of the report, including those related to the nature of privacy rights and the test for permissible infringements on privacy, we commend the Special Rapporteur for taking up this difficult issue, and we encourage other States, businesses, and civil society groups to take seriously the human rights concerns raised by the report.

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On June 10, 2013, at the 23<sup>rd</sup> session of the HRC, a statement on freedom of expression on the internet was read by Tunisia, on behalf of 70 countries, including the United States. Excerpts from the statement appear below; the full text is available at <http://geneva.usmission.gov/2013/06/10/internet-freedom-5/>.

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The Vienna Declaration and Program of Action asserted that all human rights are universal, indivisible, interdependent and interrelated. This was also at the core of the resolution 20/8 “The promotion, protection and enjoyment of human rights on the Internet” adopted by consensus in this Council a year ago. Our conviction that freedom of expression and access to information promotes development in all spheres of society stands firm. With the remarkable spread, use and potential of modern communication technologies, the importance of this link cannot be overestimated. Internet, social media, and mobile phone technology have played, and should continue to play, a crucial role as instruments for participation, transparency and engagement in socio-economic, cultural and political development.



We also reiterate what was stated in the important resolution 20/8; that the same rights that people have offline such as freedom of expression, including the freedom to seek, receive and impart information must also be protected online.

To enjoy and ensure the potential that the internet offers, we believe that there should be as little restriction as possible to the flow of information on the Internet and we repeat our call on all states to ensure strong protection of freedom of expression, privacy and other human rights online in accordance with international human rights law.

As the Internet continues to spread and its impact grows, the handling of security concerns are moving into the realm of the Internet as well. However, the state's efforts to manage security concerns may pose a challenge when it relates to the Internet.

It is of paramount importance to recall that the state has an obligation to respect, protect and promote individuals' human rights and fundamental freedoms. This applies, as laid out before, both in the physical world as well as on the Internet. We therefore wish to emphasize that when addressing any security concerns on the Internet, this must be done in a manner consistent with states' obligations under international human rights law and full respect for human rights must be maintained.

Recognizing the complexity and the diversity of the Internet, it is our belief that governments should promote and protect human rights online at the same time as taking responsibility for security concerns. We are convinced that governments can achieve this through the establishment of democratic and transparent institutions, based on the rule of law. This is not only possible, but necessary to ensure that the Internet can continue being the vibrant force which generates economic, social and cultural development.

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On November 26, 2013, U. S. Representative to the UN Economic and Social Council, Elizabeth Cousens delivered the U.S. explanation of position on the Third Committee resolution on "The Right To Privacy in the Digital Age." The resolution was adopted by consensus on December 18, 2013. U.N. Doc. A/RES/68/167. Ambassador Cousens's statement is excerpted below and available at <http://usun.state.gov/briefing/statements/218078.htm>.

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The United States appreciates the efforts of Germany and Brazil, and we are pleased to have joined consensus on today's resolution because the human rights it reaffirms—privacy rights and the right to freedom of expression as set forth in the International Covenant on Civil and Political Rights (the ICCPR) and protected under the U.S. Constitution and U.S. laws—are pillars of our democracy.

We take this opportunity to reaffirm those human rights instruments that we have long affirmed, in particular the ICCPR, understanding this resolution to be focused on State action and consistent with longstanding U.S. views regarding the ICCPR, including Articles 2, 17, and 19. The United States has long championed these rights domestically and internationally, and as we have said before, we firmly believe that privacy rights and the right to freedom of expression



must be respected both online and offline, as demonstrated by our cosponsorship of a resolution on this topic at the Human Rights Council.

In some cases, conduct that violates privacy rights may also seriously impede or even prevent the exercise of freedom of expression, but conduct that violates privacy rights does not violate the right to freedom of expression in every case. The United States remains firmly committed to working with all States to promote freedom of expression and privacy online. And we applaud this resolution's recognition that full respect for the right to freedom of expression requires respect for the freedom to seek, receive, and impart information.

Mr. Chairman, human rights defenders, civil society activists, and ordinary citizens the world over are using the Internet and online resources in new and innovative ways, to protect human dignity, fight against repression, and hold governments—including mine—accountable. It is imperative that they can use these tools freely without inappropriate censorship and fear of reprisals, to continue their vital work to protect and promote human rights worldwide. Thank you.

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## **L. FREEDOM OF RELIGION**

### **1. U.S. Domestic Developments**

#### ***a. Launch of the Office of Faith-Based Community Initiatives***

On August 7, 2013, Secretary Kerry announced the creation of the Department of State Office of Faith-Based Community Initiatives, established to engage more closely with faith communities around the world. The Secretary's remarks on the launch of the Office of Faith-Based Community Initiatives are available at [www.state.gov/secretary/remarks/2013/08/212781.htm](http://www.state.gov/secretary/remarks/2013/08/212781.htm). The website of the office, [www.state.gov/s/fbci/](http://www.state.gov/s/fbci/), features a statement of the U.S. Strategy on Religious Leader and Faith Community Engagement and includes this overview of the Office of Faith-Based Community Initiatives:

The Office of Faith-Based Community Initiatives is the State Department's portal for engagement with religious leaders and organizations around the world. Headed by Special Advisor Shaun Casey, the office reaches out to faith-based communities to ensure that their voices are heard in the policy process, and it works with those communities to advance U.S. diplomacy and development objectives. In accordance with the U.S. Strategy on Religious Leader and Faith Community Engagement, the office guarantees that engagement with faith-based communities is a priority for Department bureaus and for posts abroad, and helps equip our foreign and civil service officers with the skills necessary to engage faith-communities effectively and respectfully. The office collaborates regularly with other government officials and offices focused on religious issues,

including the Ambassador-at-Large for International Religious Freedom, the Department's Office of International Religious Freedom, and the White House Office of Faith-Based and Neighborhood Partnerships.

**b. *U.S. annual report on international religious freedom***

On May 20, 2013, the Department of State released the 2012 International Religious Freedom Report, and transmitted the report to Congress pursuant to § 102(b) of the International Religious Freedom Act of 1998 (Pub. L. No. 105-292), as amended, 22 U.S.C. § 6412(b). The report is available at [www.state.gov/j/drl/rls/irf/religiousfreedom/#wrapper](http://www.state.gov/j/drl/rls/irf/religiousfreedom/#wrapper). Remarks by Ambassador-at-Large for International Religious Freedom Suzan Johnson Cook on the release of the report are available at [www.state.gov/j/drl/rls/rm/2013/209699.htm](http://www.state.gov/j/drl/rls/rm/2013/209699.htm). Secretary Kerry's statement on the release of the report is available at [www.state.gov/secretary/remarks/2013/05/209678.htm](http://www.state.gov/secretary/remarks/2013/05/209678.htm).

**2. Human Rights Council**

**a. *Resolutions at the 22<sup>nd</sup> session***

At its 22<sup>nd</sup> session, the HRC adopted two resolutions related to freedom of religion or belief. Resolution 22/20 was co-sponsored by the United States and the European Union and affirms that respect for religious diversity is an essential element of a peaceful society. Ambassador Donahoe delivered a statement on behalf of the U.S. delegation in support of the resolution on March 21, 2013. Resolution 22/20 was adopted without a vote on March 22, 2013. U.N. Doc. A/HRC/RES/22/20. Ambassador Donahoe's statement is excerpted below and available in full at <http://geneva.usmission.gov/2013/03/22/respect-for-religious-diversity-is-an-essential-element-of-any-peaceful-society/>.

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The United States is pleased to co-sponsor the EU-sponsored resolution on the freedom of religion or belief. The United States strongly supports freedom of religion for all people around the world. Unfortunately, in too many countries, governments fail to protect, or actively deny, their peoples' fundamental right to believe according to their conscience and to manifest those beliefs, and subject their citizens to violence, severe discrimination, or arrest on account of those beliefs. Too many people around the world face the threat of prosecution from blasphemy and apostasy laws, which governments frequently use to shield themselves from legitimate criticism, and fellow citizens use as weapons in private disputes. Too many governments routinely fail to investigate and prosecute perpetrators of sectarian crimes, leading to a climate of impunity that

may breed violent extremism. These trends must be reversed if we are to realize sustainable peace in this world.

We note with particular concern the worsening plight of religious minority communities in Iran, including Christians, Sunnis, Sufis, Jews, and Baha'i. Iranian officials continue to restrict these communities' freedom to practice their religious beliefs free from harassment, threat, or intimidation. Christian pastor Saeed Abedini's continuing harsh treatment at the hands of Iranian authorities exemplifies this trend. We repeat our call for the Government of Iran to release Mr. Abedini, and others who are unjustly imprisoned, and to cease immediately its persecution of all religious minority communities. The United States also repeats its call for the Government of Iran to provide without delay the urgent medical attention Mr. Abedini needs.

Respect for religious diversity is an essential element of any peaceful society, and religious freedom is a universal human right that all states have a responsibility to uphold. We implore all states to live up to their obligations and to hold accountable those who seek to restrict the freedom of religion.

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Another resolution was adopted on March 22, 2013 that follows up on resolution 16/18 on combating religious intolerance, adopted in 2011. U.N. Doc. A/HRC/RES/22/31; see *Digest 2011* at 236-37 on the adoption of resolution 16/18. Assistant Secretary Brimmer's remarks at the opening of the 22<sup>nd</sup> session of the HRC, excerpted in Section A.1.a, *supra*, also discuss resolution 16/18. Ambassador Donahoe delivered the comment of the U.S. delegation in support of resolution 22/31 on "combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief." Her statement is excerpted below and available in full at <http://geneva.usmission.gov/2013/03/22/16-18/>.

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For the third year in a row, this Council has affirmed the Resolution 16/18 consensus on a range of positive steps that states should take to address the glaring challenges of intolerance, discrimination, and violence on the basis of religion or belief without infringing on the fundamental freedoms of expression and religion. All too often today we hear of places of worship being attacked, of individuals belonging to minority religious communities facing violence and discrimination because of their beliefs, and of repressive laws infringing on the freedoms of religion and expression.

The steps called for in this resolution—such as protecting places of worship, enforcing anti-discrimination laws, and speaking out against intolerance—are critical in addressing these pressing concerns in a manner that protects universal human rights. This consensus has moved this Council away from the divisive and unacceptable approach of encouraging restrictions on speech as a way to address intolerance, to an approach that recognizes that protection of human rights for all individuals is essential to promote tolerance and understanding. We have worked with many partners to promote implementation of the specific actions called for in this

resolution. And we continue to promote such action through assistance and training programs, and through participation in the Istanbul process of experts meetings to identify best practices.

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On March 25, 2013, the U.S. delegation to the HRC made a statement in an interactive dialogue that included the Special Rapporteur on Freedom of Religion and Belief, Heiner Bielfeldt. The statement is excerpted below and available in full at <https://geneva.usmission.gov/2013/03/06/u-s-statement-on-freedom-of-religion-or-belief-item-3/>.

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The United States also thanks Special Rapporteur Bielfeldt. We appreciate his focus on the need to respect and protect freedom of religion or belief of persons belonging to religious minorities.

Many of the Special Rapporteur's documented violations are confirmed through our own Annual Report on International Religious Freedom. Despite some progress, the overall status of religious freedom in the world is sliding backward, especially for religious minorities. We stand by those reaching for greater dignity and freedom and demanding that their governments institutionalize democratic reform. We are concerned by governments that fail to protect religious minorities, reform discriminatory laws, or speak out against hate on the basis of religion or belief. Many countries restrict religious freedom supposedly to ensure public safety, even though studies have shown that suppression of religious freedom is directly correlated with instability and violence. Some states use the pretext of countering violent extremism to suppress religious freedom and other human rights, even though such suppression itself can lead to radicalization. Those arrested on charges of extremism are often subject to torture, beatings, and harsh prison conditions.

We also note the Special Rapporteur's recommendations for promoting religious freedom and tolerance, many of which have been outlined in Human Rights Council Resolution 16/18. We continue to urge implementation of the constructive measures laid out in that resolution, including the development of outreach programs to religious minorities, training for government officials on religious and cultural needs and sensitivities, promoting understanding through education and the media, and interfaith dialogue.

Finally, we would like to underscore the important role of civil society, religious communities, and national human rights institutions to promote religious freedom along with governments, and to speak out against intolerance. The United States continues to establish partnerships with groups and individuals around the globe and we are using our convening power to bring together various groups to advance religious freedom around the world.

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**b. Istanbul Process**

On June 19, 2013, Acting Principal Deputy Assistant Secretary of State for Democracy, Human Rights, and Labor Michael G. Kozak delivered the U.S. statement at the 3<sup>rd</sup> International Expert Meeting on the Follow-up of Implementation of HRC Resolution 16/18, held in Geneva. For background on Resolution 16/18 and previous follow-up (the “Istanbul Process”), see *Digest 2012* at 220-22 and *Digest 2011* at 235-44. The June 2013 meeting of the Istanbul Process was hosted by the Organisation for Islamic Cooperation (“OIC”). Ambassador Kozak’s statement at the June meeting of the Istanbul Process is excerpted below and available at <http://geneva.usmission.gov/2013/07/09/the-u-s-on-review-of-the-istanbul-process-progress/>.

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The United States is pleased to participate in the third meeting to promote implementation of HRC Resolution 16/18. We thank OIC Secretary General Ihsanoglu for his leadership in inspiring Resolution 16/18. And we thank him for working to promote its implementation through the process he, Lady Ashton and former Secretary Clinton began in Istanbul. He is a valued partner and we commend his efforts on advancing its implementation.

In reviewing these efforts, we assess that there has been significant progress. We also believe there is a strong need to continue our joint efforts to promote implementation of 16/18. We have had successes multilaterally in organizing a series of highly substantive meetings of which today’s is the latest. And we have some positive examples of implementation of the steps called for in the resolution within member States. Unfortunately, however, there are many examples of States taking a conflicting approach on religious intolerance, including through passage or enforcement of blasphemy laws. Enforcement of such laws not only infringes on the freedoms of religion and expression; they also exacerbate underlying tensions that may exist between religious communities. And they are often enforced in ways that target members of religious minorities and political opponents.

In the U.S. we learned these lessons the hard way.

There has been a narrative that the U.S. is clinging to its “quaint” 18th Century First Amendment while the rest of the world has progressed. But the reality is the opposite. While the text of the First Amendment has remained the same, its interpretation has changed radically over time.

When the First Amendment was first enacted, we maintained in place blasphemy laws we inherited from our colonial experience. Initially the authors of our Constitution passed the Alien and Sedition Act which criminalized “false, malicious and scandalous” publications about the government. We criminalized criticisms of slavery on the grounds that such criticism could incite violence. We suppressed labor union activity and civil rights advocacy.

We learned a hard lesson. All of these efforts to prevent violence by banning speech ended in violence. Because when you close off peaceful dissent and debate, violence becomes the only alternative.

About sixty years ago, our national consensus changed. Our courts severely limited how speech could be restricted. And we set up the machinery to protect minority views. The result has been greater harmony and peace. Our application of these lessons learned occurred in the same time frame as the development of international human rights law as reflected in the Universal Declaration and in the International Covenant on Civil and Political Rights.

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So when we speak about freedom of expression, we speak from principle but mostly from experience. We urge the governments that are working to implement the principles in 16/18 to examine the U.S. experience. We believe they would find that a reform of their current laws to a less restrictive approach might well engender greater harmony, as it did in the U.S.

At the experts meeting the United States held in December 2011, we invited practitioners from foreign government ministries of justice and ministries of interior. They discussed two recommended actions from 16/18: First, they discussed effective government strategies to engage members of religious minorities, and training of government officials on religious and cultural awareness. Second, they examined enforcing laws that protect against discrimination on the basis of religion or belief. This conference focused on concrete measures States can take, and we found a number of best practices derived from the experience of a large number of countries. Our report of the meeting, which includes a list of best practices discussed by the participants, is available online. We can also provide you with a copy.

As the result of requests made at that conference, the United States has initiated a foreign assistance program run by our Departments of Justice and of Homeland Security. They provide interested foreign governments help to establish training programs on the two topics that were discussed: government engagement with members of religious communities and enforcement of anti-discrimination laws. The first such training was held last week in Bosnia. We had excellent discussions and participation from officials in Bosnia, including Bosniaks, Serbs, and Croats living in Bosnia- Herzegovina. We have two more trainings planned as well, one in the North Africa region and one in the Southeast Asia region.

The United Kingdom, in association with Canada, hosted the second implementation meeting in December 2012. This implementation meeting focused on best practices for fostering religious freedom and pluralism. These included promoting the ability of members of religious communities to manifest their religion and building networks with civil society and other partners to promote freedom of religion or belief. A summary of that meeting, which includes a list of ideas made by panelists, is also available online.

Now we are here for this meeting being hosted by the OIC in Geneva. Thus far 16/18 implementation meetings have been held in States rather than at UN facilities so that the message of implementation gets carried directly to domestic audiences and experts. It also allows us to hear from domestic experts who work daily on how to best combat religious intolerance. But this meeting in Geneva provides us with an opportunity to reflect on the progress made thus far, to inform delegations here in Geneva of that progress, and to continue to work together towards future implementation efforts. We are aware that Qatar, for example, has declared its intention to host a 16/18 meeting, perhaps later this year, and other countries are considering hosting next year. We look forward to working with them on those plans.

Through these meetings, we are able to discuss best practices of the specific policies outlined in 16/18. In documenting the reports of those meetings, we are creating a record of best

practices that states can use to improve their policies at home. But the key is to turn these compilations of best practices into concrete reforms.

We are pleased with the progress so far and plan to continue to work directly with interested parties. We will continue to provide technical expertise and training, to promote implementation of the steps called for in 16/18. And we welcome any states with interest in receiving such assistance to be in contact with us.

In addition to this progress in supporting the efforts of others, domestically the United States has continued its efforts to practice what 16/18 preaches. We have made strong efforts vigorously to enforce anti-discrimination laws, to speak out against intolerance, to encourage interfaith dialogue, to protect the freedoms of religion and expression, and to engage robustly with members of religious communities. These policies, which are part of 16/18 and which we will discuss further today, are policies that have proven successful in the United States over the past several decades. It is because of our experience on these issues that we are so committed to promoting implementation of 16/18.

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## **M. RULE OF LAW AND DEMOCRACY PROMOTION**

### **1. United States Joins Venice Commission**

On April 15, 2013, the United States became the 59th member of the Council of Europe's European Commission for Democracy through Law, or Venice Commission. For more information on the Venice Commission, see its website, [venice.coe.int](http://venice.coe.int). The United States had been an observer at the Venice Commission since 1991. Sarah Cleveland, a law professor at Colombia Law School who has represented the United States as an observer since 2010, is serving as the first U.S. member on the Commission, with Evelyn Aswad, a law professor at the University of Oklahoma College of Law, as substitute member. In a post available at <http://cyberambassadorsblog.wordpress.com/2013/04/15/u-s-joins-venice-commission-today/>, Evan G. Reade, U.S. Deputy Permanent Observer at the Council of Europe, wrote of the U.S. joining the Venice Commission:

The decision of the United States to seek full membership after many years participating as an observer represents a commitment to the use of rule of law to address all range of constitutional issues, and we look forward to making a positive contribution based on our own legal scholarship, experience, and expertise. The U.S. respects and appreciates the influential work the Commission has accomplished in Europe since its creation in 1990 and notes with satisfaction that in addition to its continued relevance in advancing democracy in Europe, its expertise is now being recognized and sought by countries outside Europe seeking to strengthen the rule of law in their systems of government.



## 2. UN Third Committee Resolution

On November 7, 2013, the United States introduced a resolution on “Strengthening the role of the UN in enhancing periodic and genuine elections and the promotion of democratization.” Ambassador Elizabeth M. Cousens, U.S. Representative to the UN Economic and Social Council, delivered the statement for the United States. Her remarks, excerpted below, are available at <http://usun.state.gov/briefing/statements/217350.htm>.

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On behalf of the United States as the main sponsor of this resolution and the over 50 member states who have already cosponsored this text, it is my pleasure to introduce the Third Committee resolution entitled “Strengthening the Role of the United Nations in Enhancing Periodic and Genuine Elections and the Promotion of Democratization,” Document L. 41.

In line with previous resolutions, this year’s text reaffirms that democracy is a universal value based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives. As President Obama recently said at the General Assembly, “Strong nations recognize the values of active citizens. They support and empower their citizens rather than stand in their way, even when it’s inconvenient—or perhaps especially when it’s inconvenient—for government leaders.”

This text also includes elements incorporated in the General Assembly’s previous resolutions on elections, recognizing the importance of free, fair, periodic and genuine elections, including in new democracies and countries undergoing democratization in order to empower citizens to express their will and to promote successful transitions to long-term sustainable democracies.

Two crucial elements in this text ensure the realization of democratization and free, fair, periodic and genuine elections. Consistent with the recent Secretary General’s report, the resolution highlights the participation of women in the political and electoral process. The resolution calls upon States to enhance the political participation of women, on equal terms with men, at all levels of decision-making. The resolution this year also includes a new element relevant to persons with disabilities, reflecting the unique challenges they face in participating in electoral processes, including physical barriers to participation. States have an obligation to ensure that persons with disabilities can participate in the electoral process. This includes measures such as having tactile ballots for the visually impaired and ramps for persons with physical disabilities to access polling stations.

The text also reiterates the role of civil society and the importance of its active engagement in the promotion of democratization and invites Member States to facilitate the full participation of civil society in the electoral processes. As President Obama said, “Strong civil societies help uphold universal human rights. The human progress has always been propelled at some level by what happens in civil society—citizens coming together to insist that a better life is possible, pushing their leaders to protect the rights and the dignities of all people.”



Finally, Mr. Chair, we appreciate the active support of delegations for this text and the contributions made to the text by Member States through the open negotiations we have conducted. We encourage those who have not yet done so to cosponsor the resolution and we hope it will again be adopted by consensus as it has been in the past.

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### 3. Civil Society

On September 23, 2013, on the margins of the UN General Assembly in New York, governments of 24 countries, including the United States, agreed on a joint statement “On the Promotion and Protection of Civil Society.” Daily Comp. Pres. Docs. 2013 DCPD Doc. No. 00654, p. 1. President Obama and leaders of several other governments that met and agreed to the joint statement also delivered remarks at their meeting. Daily Comp. Pres. Docs. 2013 DCPD Doc. No. 00653, pp. 1-6. The joint statement follows.

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We, the governments of the United States, Australia, Canada, Chile, Croatia, Czech Republic, Denmark, Estonia, Georgia, Ireland, Japan, Libya, Lithuania, Mexico, Mongolia, the Netherlands, Norway, Poland, Slovakia, South Korea, Sweden, Switzerland, Tunisia, and the United Kingdom, taking note of the important work of the Community of Democracies, the Open Government Partnership, and the Lifeline Fund, met on September 23 along with representatives of civil society, the philanthropic community, the private sector, and the United Nations on the margins of the United Nations General Assembly in New York. Our purpose was to reinforce the central role of civil society in working with governments to address common challenges and to coordinate action to promote and protect civil society in the face of ongoing assault around the world. We affirmed that the strength and vibrancy of nations depend on an active civil society and robust engagement between governments and civil society to advance shared goals of peace, prosperity, and the well-being of all people. We noted our deep concern that many governments are restricting civil society and the rights of freedom of association and expression, both online and offline.

To combat this alarming trend, our governments committed to work together to respond to growing restrictions on civil society that undermine its ability to perform its crucial role. We will ensure effective coordination of the multiple efforts already underway toward this end, including through the U.N. system, the Community of Democracies, the Open Government Partnership, and Lifeline, and commit to strengthen our support for these existing mechanisms. We will enhance our support for the work of the U.N. Special Rapporteur on the rights to freedom of peaceful assembly and of association. We will lead by example to promote laws, policy decisions, and practices that foster a positive space for civil society in accordance with international law, and oppose legislation and administrative measures that impede efforts of civil society. We will undertake joint diplomatic action whenever necessary to support civil society in

countries where it is under threat, and to defend the fundamental freedoms of association and peaceful assembly.

We will also work to develop new and innovative ways of providing technical, financial, and logistical support to promote and protect the right of citizens and civil society to freely associate, meaningfully engage with government, and constructively participate in processes to improve the well-being of their countries. Throughout all of these efforts, our nations will continue to engage with representatives of civil society to help us understand and respond to the challenges they confront.

We commit to gather again at the opening of the 69th United Nations General Assembly to review our progress toward these objectives. We will work in concert over the coming year to ensure a robust, effective international response to the proliferation of restrictions being placed on civil society. We call on representatives of civil society, the philanthropic community, the private sector, and other governments to partner with us in supporting and defending civil society.

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On September 27, at the 24<sup>th</sup> session of the HRC, Ambassador Donahoe delivered a general statement for the United States in support of a resolution on civil society space. The resolution was adopted by consensus on September 27, 2013. U.N. Doc. A/HRC/RES/24/21.

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The United States is proud to co-sponsor the Human Rights Council's first resolution on creating and maintaining, in law and in practice, a safe and enabling environment for civil society. We thank Ireland for this leadership. This timely resolution underscores the important role civil society plays both in the promotion and protection of human rights, democracy, and the rule of law, and in providing expertise and advocacy within the UN system. We recognize the importance of states' commitment to creating an enabling environment for civil society and encourage all states to work together and with relevant regional, UN, and civil society mechanisms in this effort. Just this past week, heads of state, civil society, multilateral organizations, and private foundations gathered in New York at an event President Obama hosted on the margins of UNGA to consider ways to improve the policy environment for civil society. Participants discussed strengthening adherence to international norms and promoting best practices for government and civil society engagement and ways to resist the increasing restrictions being placed on civil society.

The text we are adopting today includes a reference to "realizing the right to development" in a long list of challenges with respect to which civil society plays a role. While development is a goal we all aim to achieve, important work is needed to build consensus on the relationship between development and human rights.

The United States thanks Ireland and the other core group members—Tunisia, Sierra Leone, Japan, and Chile—for the open and transparent negotiations they facilitated, and notes the spirit of flexibility and compromise that characterized those negotiations. In that context, we regret the decision of certain states—at the last hour—to table numerous amendments

introducing new elements that are not central to the subject of creating and maintaining civil society space. In light of the extensive consultations that took place after these states proposed the amendments, we are particularly disappointed that these states chose to call votes today on these amendments.

This is not how the Council should operate. We join the core group in calling on member states to vote “no” on these hostile amendments, and to support the text as proposed.

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#### 4. Equal Political Participation

On September 26, 2013, the HRC adopted resolution 24/8 on equal political participation. U.N. Doc. A/HRC/RES/24/8. The resolution was the culmination of an initiative led by the Czech government. In June, at the 23<sup>rd</sup> session of the HRC, the Czech delegation delivered a joint statement on equal political participation on behalf of numerous countries, including the United States. The June 10, 2013 joint statement on equal political participation follows.

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Every healthy society makes sure that all its members have equal access to the political process. Political participation is the basis of democracy, a driving force towards social cohesion and economic development as well as a vital part of the enjoyment of all human rights and fundamental freedoms.

The right to express one’s political will through suffrage in periodic and genuine elections and the right to be elected are crucial forms of such political participation. In this regard, we also wish to recall the importance for everyone to be able to exercise their rights to freedom of expression, peaceful assembly and association.

For political participation to be meaningful, it has to be fully inclusive. Only then it can channel competing interests into spaces of dialogue, leading to compromises that can be respected by all, and thus avoiding the possibility of tensions and resort to violence. This is also key in post-conflict situations and times of transition.

For this to happen, States should ensure that every citizen has an effective opportunity to participate in public affairs without discrimination of any kind. States should eliminate laws, regulations and practices that, in a discriminatory manner, prevent or restrict participation in the political process.

Despite recent progress, many continue to face countless challenges to exercise their right to participation in the political life of their countries on equal basis.

Women’s full and equal participation in the political process and decision-making is essential to the achievement of equality, sustainable development, peace and democracy.

Persons living in poverty and other vulnerable situation or belonging to national or ethnic, religious and linguistic minorities are among the most affected by social exclusion and are subject to discrimination in the exercise of their political participation.

With this statement we would like to encourage states not only to respect and protect political rights of their citizens but to make a further step and take positive action to facilitate, promote and create conditions for them to fully exercise such rights.

States should actively aim to identify barriers, in law and in practice, as well as those individuals and groups that face the most obstacles, and to take adequate measures towards the full realization of their political rights on equal basis with other citizens towards the development of more inclusive and plural societies.

Some of the measures recommended by various international human rights mechanisms that, though quite simple, have major impact on effective participation free from discrimination, include:

Making polling stations accessible or allowing assistance in voting to facilitate the participation of persons with disabilities; Abrogating laws that discriminate against or are discriminatory to women in all fields of life; Removing discriminatory requirements such as language, ethnicity or religion that exclude persons belonging to minorities from the right to vote or to stand for elected office; Ensuring freedom of opinion and expression, access to public information and media, and freedom of peaceful assembly; Guaranteeing accessible and non-discriminatory voters' registration, where established; Facilitating access to legal identity and to documentation necessary to register as a voter or a candidate that affects for instance socially excluded persons, such as persons living in poverty and also persons in post-conflict situation. Meaningful participation of all segments of society in public affairs ensures that decision-making includes a broad range of opinions, perspectives and interests, leading to policies that foster stability, development and respect for human rights of all. And that should be our common aim.

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## **N. PUTATIVE RIGHTS**

### **1. Right to Development Resolution at the Human Rights Council**

On September 26, 2013, the UN Human Rights Council adopted a resolution entitled "The right to development." U.N. Doc. A/HRC/RES/24/4. The United States voted against the resolution. The U.S. explanation of vote follows.

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The United States' commitment to international development as a critical element of our foreign policy is clear. Nevertheless, we continue to have concerns about the so-called right to development. The United States is pleased to actively participate in the Working Group on the Right to Development in an effort to foster better implementation of development goals and to harmonize the various interpretations of the right to development. Unfortunately, the divisive resolution before us seeks to upset the careful balance resulting from those discussions by calling for an additional two-day informal meeting, without any effort to reach agreement on how to make progress in those discussions. We therefore request a vote on this resolution and will vote NO.

We would also highlight these additional points.

First, the United States remains convinced that any discussion of the right to development must involve expert guidance from civil society and the private sector. We hope that this year, we will be able to ensure better expert and civil society participation.

Second, it is important to consider not only the criteria and sub-criteria, but also the indicators elaborated by the High Level Task Force. It is the more specific indicators that are essential to analysis, measurement, and evaluation. These operational elements—which, together with the sub-criteria themselves, constitute “operational sub-criteria”—are important not so that we can rank or criticize particular States, but rather so that we can see how to improve the lives of the greatest number of individuals. Therefore, it is essential that the Working Group’s future sessions take up the issue of indicators. We see this as squarely within the Working Group’s mandate. We are disappointed that the proponents of this resolution have consistently refused to consider proposals to incorporate discussion of these operational elements.

Third, discussion of the right to development needs to focus on aspects of development that relate to human rights, universal rights that are held and enjoyed by individuals. These rights include civil and political rights as well as economic, social, and cultural rights. The focus should be on the obligations States owe to their citizens in this regard, not the asserted obligations of institutions. Regrettably, this resolution continues to focus on institutions. In addition, the resolution dictates how the UN’s specialized agencies should incorporate the topic of the right to development in their activities and inappropriately singles out the World Trade Organization for negative treatment.

Fourth, as previously noted, we are not prepared to join consensus on the possibility of negotiating a binding international agreement on this topic.

Nevertheless, we hope that at its 15th session, the Working Group can continue to operate constructively and on the basis of consensus, with further consideration of the sub-criteria and their operational elements and indicators.

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## **2. Putative Right to Peace**

### **a. *Working Group on a Draft UN Declaration on the Right to Peace***

As discussed in *Digest 2012* at 238-42, the United States has participated in the inter-governmental working group on a draft UN declaration on the right to peace, despite U.S. opposition to the creation of the group. The United States continued to attend the working group’s sessions in 2013. Excerpted below is the U.S. opening statement at the working group’s session that began on February 18, 2013. The U.S. opening statement reiterates the basis for U.S. opposition to the elaboration of a declaration on the “right” to peace. The full text of the U.S. opening statement delivered on February 18 is available at <http://geneva.usmission.gov/2013/03/04/working-group-on-a-draft-un-declaration-on-the-right-to-peace-opening-statement>.

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We appreciate this opportunity to provide further views both on the establishment and work of this Inter-Governmental Working Group and on its subject, the possibility of elaborating a Declaration on a “right to peace.” As most of you know, the United States voted against the establishment of this working group. I’d like to explain several of the reasons why:

*First*, we do not recognize the existence of a “right” to peace. The United States is deeply concerned whenever conflict erupts. We work assiduously in our diplomacy at the Security Council and bilaterally to resolve conflicts or prevent them before they can erupt, and we believe human rights and peace are closely related. Indeed, in the words of the UDHR, “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” But the proposed “right” is neither recognized nor defined.

*Second*, our concern isn’t solely that the “right” to peace is unrecognized right now. Our concern is also with efforts to create such a right. We are worried that such efforts not only would be unproductive, but could do serious damage. As we will explain in more detail over the coming days, in many cases, the issues that the draft Declaration purports to address are already addressed in other, more appropriate forums, some under the Human Rights Council, and some not. By way of example of issues that are addressed outside the Council, arms control issues are, for instance, already being addressed at the Conference on Disarmament and in the Arms Trade Treaty talks. Peacekeeping is more appropriately addressed at the Security Council. “Peace education” is already addressed by UNESCO. And with respect to issues already under discussion in the Council, we would point out, for instance, that the draft Declaration has a provision on the right to development, which is the subject of its own HRC Working Group. We see a real risk that discussions on a “right” to peace could duplicate if not undermine these different existing processes.

*Third*, we have a fundamental concern with some of the ideas that have long been connected with discussions on the “right to peace.” Among them, the draft Declaration asserts that the right to peace is held by “peoples,” when the UDHR and other foundational documents accord human rights to individuals, not groups or nations. Further the draft Declaration sometimes appears to suggest that the “right to peace” includes and subsumes a range of existing human rights, some of which are universally recognized and are not subsets of the right to peace and others of which do not exist and add little value to the civil, political, economic, social, and cultural rights that are foundational to the humanity and dignity of each person. By way of example, the draft Declaration includes the “right to live in a world free of weapons of mass destruction,” Article 3(3), “the right to have the resources freed by disarmament allocated to ... the fair redistribution of natural wealth,” Article 3(5), the “the right to the elimination of obstacles to the realization of the right to development such as the servicing of unjust or unsustainable foreign debt burden and their conditionalities, or the maintenance of an unfair international economic order,” Article 9(3). While some of these may be important national objectives, defining them as rights—which an individual may assert against a State and for which he or she may seek a remedy for violations—wholly inconsistent with and may risk eroding the international framework of universal human rights guaranteed to individuals. Additionally the Declaration appears to envision roles for different UN entities that may be inconsistent with the arrangements set out in the UN Charter.

We would also like to take the opportunity to say a word about this Working Group. While we are participating in the Working Group to explain our views on this issue, and appreciate the Chairperson's efforts to bring everyone to the table and willingness to listen to all perspectives, our presence here should not be mistaken for agreement to negotiate a Declaration on the Right to Peace. We have listened with interest to what the Chairperson has said on this subject and are pleased that he does not wish the next three days to be a negotiation, either. Indeed, I want to be clear that we are not prepared to engage in such negotiations. That said, we would offer the following brief preview of positions that we may take later this week:

As noted above, there are a number of issues addressed by the draft Declaration that are properly addressed in other forums. These issues include disarmament and peacekeeping and refugees and migration. There are also a number of issues addressed by the draft that are already under discussion in the Human Rights Council—and indeed in many cases are due for further discussion either in the coming weeks at HRC22 or later this year. Included in that category are the right to development and the environment. Finally, there are also issues where certain aspects of the issue are under discussion at the international level, including at the HRC, while other aspects are more appropriate for domestic regulation. And I would put PMSCs in that category. None of these are suitable for discussion in this Working Group.

On the other hand, we do agree with those delegations that argue that the promotion and protection of existing human rights can make a profound contribution to peace. For instance, protecting the right to freedom of expression can make a society more stable. As former Secretary of State Clinton has said, “[e]ach time a reporter is silenced, or an activist is threatened, it doesn’t strengthen a government, it weakens a nation.” But we don’t think the right answer here is to draft a new Declaration that seeks to convert peace from a fundamental objective of our country and of the UN into a new human right. Rather, recognizing the links between the promotion and protection of human rights, on the one hand, and peace, on the other, we should instead all strive to ensure our own respect for our human rights obligations and seek to learn from each other on how to strengthen that link between respecting those obligations and peace.

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As previewed in the U.S. opening statement above, the United States participated in the session of the working group on a draft declaration on the right to peace despite the group’s work on several subject areas that are already covered by other UN bodies and groups. For example, on February 20, 2013, the United States responded to the issue paper on refugees and migrants, identifying other for a in which these concerns are being addressed. The U.S. statement, excerpted below, is available at <http://geneva.usmission.gov/2013/03/04/declaration-on-the-right-to-peace-issue-paper-on-refugees-and-migrants/>.

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We would like to take this opportunity to offer some general views on the inclusion in the Advisory Committee's draft Declaration of provisions related to refugees and migrants.

As we have said with respect to a number of other subjects in the Declaration, we do agree that refugee and migrant issues are extremely important, and we do think there is a human rights dimension to this issue. The United States strongly supports the human rights of all migrants, regardless of their immigration status.

However, refugee and migrant issues are both handled in other fora, namely the United Nations High Commissioner for Refugee's (UNHCR) Executive Committee, the Inter-Agency Standing Committee, and the United Nations General Assembly. They are also handled at the Global Forum on Migration and Development and some fourteen "Regional Consultative Processes" in every part of the world. There are already international conventions on refugee issues. UNHCR also regularly adopts Executive Committee Conclusions on International Protection and other human rights related issues. These Conclusions constitute expressions of opinion which are broadly representative of the policy views of the international community.

In terms of Article 12's paragraph two, the right to return to one's country, as enshrined in Article 13 of the Universal Declaration of Human Rights, is a right that belongs to all persons, not a right particular to refugees. Nonetheless, the international community should endeavor to find durable solutions for refugees, including where appropriate, voluntary return in safety and with dignity. We also have concerns with the proposed language, in paragraph 2, that special consideration be given to the situation of persons displaced by war and hunger. The status of "refugee" has a precise legal definition; whether or not they are legally "refugees," people who have been displaced by war and who suffer from hunger are vulnerable, and thus still merit the international community's concern. Nevertheless, these issues are separate from refugee issues and should be addressed differently.

In sum, we believe the Human Rights Council's time is better spent urging states to respect all human rights so that situations leading to involuntary displacement can be avoided more often, and so that migrants can have their human rights respected no matter what their legal status might be. Respecting the rights of migrants and refugees would help in creating the right conditions for a more peaceful society.

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Similarly, on February 20, the United States provided the following response to the issue paper on development, poverty, and the environment, identifying ways in which the HRC is already addressing these topics. The U.S. statement on provisions in the draft declaration relating to development, poverty, and the environment is available at <http://geneva.usmission.gov/2013/02/21/declaration-on-the-right-to-peace-issue-paper-on-development-poverty-and-the-environment/>.

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We would like to take this opportunity to offer some general views on the inclusion in the Advisory Committee's draft declaration of provisions related to several points. In addition to



development, addressed in Article 9 which we are discussing now, I will touch on the draft's provisions regarding poverty (which is in Article 2(7)), and the environment (Article 10).

These three topics (and several other topics the Declaration seeks to address) are each inappropriate for discussion in this Working Group—first, because these topics are appropriately and principally addressed in other forums; and second, while each does have a human rights dimension, those human rights dimensions are already under discussion in the Human Rights Council. We see no benefit to duplicating those other discussions or, even worse, interfering with them.

Let me first outline the ways in which the Human Rights Council is already seized with the human rights dimensions of these issues.

With respect to development, as we have repeatedly said, we remain prepared to discuss development at the Council, but any such discussion needs to focus on aspects of development that relate to human rights, i.e. those of individuals, including civil and political as well as economic, social, and cultural rights. Further, with respect specifically to the right to development, much theoretical work remains to be done to explain how the right to development is a human right—i.e., a universal right that every individual possesses and may demand from his or her government. But again, these issues are under active discussion in another forum—namely, the Working Group on the Right to Development, which will hold its fourteenth session in the next few months. And while there may remain differences of views on the substance, the issue of mechanisms for incorporating aid recipients' voices in aid programming and evaluation is one of the sub-criteria that may be discussed at the next session of that Working Group.

Furthermore, we note that draft Article 9 reiterates a number of economic, social and cultural rights. These appear to be derived from the economic, social and cultural rights contained in the International Covenant on Economic, Social and Cultural Rights and, as such, States Parties to that Covenant undertake to take steps with a view to achieving progressively its full realization. The United States is not a party to the International Covenant on Economic, Social and Cultural Rights, but we are pleased to address these human rights issues in other fora where they are already discussed, and we see no benefit, and in fact potential for harm, in reopening the same issues here.

With regard to poverty, the draft Declaration states that “mechanisms should be developed and strengthened to eliminate . . . poverty.” But just a few months ago, the Human Rights Council adopted the Guiding Principles on extreme poverty and human rights as a useful tool for States in the formulation and implementation of poverty reduction and eradication programs, as appropriate. While there were characterizations of human rights law within the report of the Special Rapporteur with which we disagreed, discussions under those auspices were and are robust and detailed. We fail to see why the same set of issues needs to be discussed here as well.

Finally, with regard to the environment, we note that the broad issue of the relationship between human rights obligations and the enjoyment of a safe, clean, healthy, and sustainable environment is squarely within the purview of the new Independent Expert created by the Human Rights Council to address, and in fact the issue will be discussed at the next session of the Human Rights Council in connection with the presentation of the IE's first report.

But while each of these three issues has a relationship with human rights, they are principally not human rights issues, and they are being primarily addressed outside of human rights bodies. For instance, poverty is a focus of the MDGs. And we all know about the discussions surrounding the post-2015 development agenda.

And, finally, many of the issues that draft Article 10 purports to address with regard to the environment are not the purview of the Council to address. They are being actively negotiated in other UN bodies of jurisdiction. The language here on this topic is incorrect in many respects, including in article 10(2) the misrepresentation that a State's responsibility is derived from its historical contribution to climate change, that its responsibility is subject to "the principle of common but differentiated responsibilities" (article 10(1) and 10(2)), and a mischaracterization of a States' responsibility for providing assistance to the common challenge of adapting to climate change. We also object to importing the phrase "common but differentiated responsibility" into a process that deals with human rights — an issue that is common across States, but is not differentiated. It does not contribute to our common work to craft an ambitious and effective climate change agreement to re-characterize the same issues in this forum, particularly when countries in the UNFCCC are currently in the process of negotiating a new agreement for the post-2020 world that will be applicable to all Parties.

To sum up, Mr. Chairperson, we are very concerned that the draft Declaration (1) risks serious interference with work already underway in the Council and (2) confuses issues, by conflating those aspects of certain topics that are appropriate for discussion at the HRC with those that are not. We see this as a fundamental flaw in the draft Declaration.

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The United States delivered a closing statement at the session of the working group on February 20, 2013, available at <http://geneva.usmission.gov/2013/02/21/declaration-on-the-right-to-peace-closing-statement>, and excerpted below.

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In closing, we have three observations, based on what we have heard this week.

*First*, a number of delegations have stated that this initiative should only go forward on the basis of consensus. We agree with them. Further, a great number of delegations have asked to exclude from this draft any concepts that do not enjoy universal consensus. One delegation phrased this idea as, "We cannot accept terms not supported by consensus of the entire international community." We simply note that the concept of a right to peace, itself, does not enjoy consensus.

*Second*, we have heard much discussion about the essential nature of the putative "right to peace." There remains a lack of agreement over that fundamental issue, including who is the holder of any such "right," in particular, whether such a "right" governs international relations between states, or is a right of "peoples," or is a right of individuals, or is something else. To the extent that colleagues wish to discuss matters such as the resort to force or disarmament, those issues of relations between and among States do not belong in this Working Group or even in the Human Rights Council. And to the extent that colleagues wish to discuss a right that is held by individuals, or even by groups of individuals, and which might allow remedies from states, we have yet to hear any explanation of the content of this right. These conceptual gaps seem to us insurmountable.

*Finally*, many colleagues have stated the relationship between peace and human rights. That relationship is a close and important one. However, that relationship has been described in different ways, for example in consensus General Assembly resolutions on a Culture of Peace. We disagree with the proposition that some stated, that peace is a prerequisite to the exercise of human rights. This suggests, in the context of this discussion, an unacceptable hierarchy of rights; further, the lack of peace cannot be an excuse for a government not to comply with its human rights obligations. But others have stated the relationship in a way with which we strongly agree: that the promotion and protection of human rights is conducive to peace. In fact, we think *that* is the issue we should be discussing, not the creation of a new right—and we would welcome that discussion.

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**b. *HRC resolution on the UN declaration on the right to peace***

On June 13, 2013, Stephen Townley delivered the explanation of vote for the U.S. delegation on the resolution entitled “United Nations Declaration on the Right to Peace.” The United States called for a vote and voted against the resolution, which calls for a further session in 2014 of the working group drafting a UN declaration on the right to peace. The resolution was adopted by a vote of 30 in favor, nine against, with eight abstentions. U.N. Doc. A/HRC/RES/23/16. Mr. Townley’s statement, excerpted below, is available at <http://geneva.usmission.gov/2013/06/13/eov-on-the-right-to-peace/>.

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As we have stated many times in our discussions of this resolution throughout the years, the United States believes that respect for human rights is fundamental to ensuring peace in any society. We know that any peace is unstable where citizens are denied the right to speak freely or worship as they please, choose their own leaders or assemble without fear.

International human rights bodies can and do make crucial contributions to advancing the important cause of international peace. Consistent with the framework set forth in the UN Charter and the covenants, we believe that the most appropriate and effective way for them to do so is through increased attention to implementation of existing human rights obligations. But the United States continues to question the value of working toward a declaration on the so-called “right” to peace. This proposed right is neither recognized nor defined in any universal, binding instrument, and its parameters are entirely unclear. Nor is there any consensus, in theory or in state practice, as to what such a right would entail. Regardless of how it has been promoted, studied or framed, past efforts to move forward with the ‘right to peace’ have always ended in endorsements for new concepts on controversial thematic issues, often unrelated to human rights. The result has inevitably been to circumvent ongoing dialogue in the Council by using broad support for the cause of peace to advance other agendas.

Human rights are universal and are held and exercised by individuals. We do not agree with attempts to develop a collective ‘right to peace’ or to position it as an ‘enabling right’ that would in any way modify or stifle the exercise of existing human rights.

Therefore, as we said during the first session of the Working Group explaining the basis for our participation, we are not prepared to negotiate a draft Declaration on the ‘right to peace.’ We do, however, remain open to the possibility of discussing, for instance, the relationship between human rights and peace or how respect for human rights contributes to a culture of peace, including in this Working Group. But if the focus is on negotiating a Declaration on the ‘right to peace,’ the Working Group will surely continue to be divisive.

No country wants to be cast as ‘voting against peace.’ This resolution, however, and a Working Group with the mandate to negotiate a Declaration on the ‘right to peace’ will not contribute to the cause of peace or human rights. A vote against this resolution is not a vote against peace, nor is it against efforts to discuss human rights and peace or find a way to reflect on those linkages, but it is rather a vote against continuing an exercise with little relationship to human rights or to peace. We hope that there can still be a constructive path forward on the issues of human rights and peace, which are important to us all, but the text before the Council today does not show us that path and, therefore we must call a vote and vote against this resolution.

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## Cross References

*Deprivation of nationality questionnaire from UN High Commissioner for Human Rights, Chapter 1.A.1.*

*Asylum and refugee issues, Chapter 1.D.*

*UN Women, Chapter 7.A.2.*

*International Law Commission’s work on crimes against humanity, Chapter 7.D.1*

*Inter-American Commission on Human Rights, Chapter 7.E.1.*

*Voluntary Principles on Security and Human Rights, Chapter 11.F.4.*

*SEC rules implementing Dodd-Frank, Chapter 11.F.5.*

*Extractive Industries Transparency Initiative, Chapter 11.F.6.*

*Sustainable development, Chapter 13.A.5.*

*Magnitsky Act sanctions, Chapter 16.A.5.*

*Other sanctions, including relating to human rights violators, Chapter 16.A.*

*Women, peace, and security, Chapter 17.C.1.*

*CAT report regarding detainees, Chapter 18.C.1.b.*

*International humanitarian law, Chapter 18.A.4.*